ALABAMA LAWS

(and Joint Resolutions)

OF THE

LEGISLATURE OF ALABAMA

PASSED AT THE

SPECIAL SESSION 1973
REGULAR SESSION 1973

IN FOUR VOLUMES

VOL. III

GEORGE C. WALLACE, Governor
JERE BEASLEY, Lieutenant Governor
PIERRE PELHAM, President Pro-Tem of the Senate
G. SAGE LYONS, Speaker of the House
JOE C. McCORQUODALE, JR., Speaker Pro-Tem of the House
McDOWELL LEE, Secretary of the Senate
JOHN W. PEMBERTON, Clerk of the House

WITH AN INDEX PREPARED BY THE
LEGISLATIVE REFERENCE SERVICE

The undersigned, as Secretary of State of the State of Alabama, does hereby certify that this book contains bills and joint resolutions enacted at the 1973 Special Session and the 1973 Regular Session of the Legislature of Alabama and is the official publication of such acts.

Mabel Amos
Secretary of State

SKINNER PRINTING COMPANY

INDUSTRIAL TERMINAL

MONTGOMERY, ALABAMA

Act No. 812 H. 285—Waggoner, Doss, Weeks, Bowers, Wallace, Meeks, Boutwell, Falkenburg, Jones (E), Timmons, Callahan, McBride, Collins

AN ACT

To authorize each of the municipalities in this State to provide buildings and other facilities for lease to and use by one or more regional, national or international association or organization, one or more of the purposes or objects of which shall consist of one or more of the following: the promotion of patriotism or good citizenship, the development of civic pride or consciousness, the improvement of trade business, professional or economic conditions, or the promotion of health, safety, conservation, community beautification, or community welfare and the membership of which regional, national or international association or organization shall include (1) persons, firms or corporations residing or domiciled in not less than twelve of the states of the United States, including at least two such members residing or domiciled in the State of Alabama, or (2) local organizations or clubs with like objects or purposes situated in not less than twelve of the states of the United States, including at least two such organizations or clubs situated in the State of Alabama; to authorize municipalities to acquire one or more projects consisting of buildings for the supplying of offices, storage and related facilities to such regional, national oor international organizations, together with any lands or interests therein deemed desirable in connection therewith, to improve, enlarge, expand, equip, furnish, insure and maintain one or more such projects, to lease such properties subject to certain specified requirements, to finance the cost of such acquisition, improvement, enlargement, expansion, equipment and furnishing by the issuance of revenue bonds payable solely out of the revenues from the leasing of such properties and to secure such bonds by pledges of such revenues and leases and by mortgages on such properties and to enter into contracts and agreements and to do all acts necessary for or incidental to the performance of the duties and the execution of the powers of a municipality under said Act; to provide that such bonds shall not be subject to the laws of the State of Alabama governing usury; to authorize the refunding of any such bonds; to provide for remedies in the event of default respecting any bonds issued under the Act; to exempt from taxation such properties and the revenue from the lease thereof, such bonds and the income therefrom, all mortgages executed as security therefor and all lease agreements made hereunder and any deeds or other documents whereby properties are acquired by a municipality under the Act; to prohibit any municipality from making contributions to the cost of any such properties and from furnishing land therefor; to provide that such bonds and any agreements made in connection therewith shall not constitute an indebtedness of a municipality or a pecuniary liability of any kind; to provide that such bonds shall be legal investments for savings banks and insurance companies organized under the laws of this state; to provide the purposes for which the proceeds from the sale of such bonds may be used; to provide that the provisions of Act No. 217 of the 1967 Special Session of the Legislature which relate to competitive bidding shall not be applicable to any contracts made by municipalities under the Act; and to provide that no notice to or consent or approval by any governmental body or public officer shall be a prerequisite to the issuance of such bonds or the securing thereof.

Be It Enacted by the Legislature of Alabama:

Section 1. DEFINITIONS. Wherever used in this act, unless a different meaning clearly appears in the context, the following terms, whether used in the singular or plural, shall be given the following respective interpretations:

"Governing body" means the board or body in which the legislative powers of the municipality are vested.

"Mortgage" means a mortgage or a mortgage and indenture of trust.

"Municipality" means any incorporated city or town in the State of Alabama.

"National organization" means any regional, national or international association or organization, one or more of the purposes or objects of which shall consist of one or more of the following: the promotion of patriotism or good citizenship, the development of civic pride or consciousness, the improvement of trade, business, professional or economic conditions, or the promotion of health, safety, conservation, community beautification, or community welfare, and the membership of which regional, national or international association or organization shall include (1) persons, firms or corporations residing or domiciled in not less than twelve of the states of the United States, including at least two such members residing or domiciled in the State of Alabama, or (2) local organizations or clubs with like objects or purposes situated in not less than twelve of the states of the United States, including at least two such organizations or clubs situated in the State of Alabama. The location of the membership of any national organization shall be conclusively established by the certificate of the chief executive officer and the secretary of the national organization, filed with the municipality and stating facts which show that such membership satisfies the requirements of this definition.

"Project" means a building or buildings for the supplying of offices, storage or related facilities for a national organization, together with any lands or interests in lands deemed by the municipality to be desirable in connection therewith.

Section 2. LEGISLATIVE INTENT. It is the intent of the legislature by the passage of this act to authorize municipalities to provide buildings and other facilities for lease to and use by one or more national organizations in order to induce such organizations to establish or to locate offices in this State or in order to encourage or facilitate such organizations in continuing to maintain offices in this State. This act shall be liberally construed in conformity with the said intent.

Section 3. ADDITIONAL POWERS CONFERRED ON MUNICIPALITIES. In addition to any other powers which it may now have, each municipality shall have the following powers: (1) to acquire, whether by construction, purchase, gift or lease, and equip one or more projects, which shall be located within this state and may be located within or without the municipality, or partially within or partially without the municipality, but which shall not be located more than fifteen miles outside of the corporate limits of the municipality; (2) to improve, enlarge, expand, equip, furnish, insure and maintain one or more projects; (3) to lease to others any or all of its projects or any part thereof for such rentals and upon such terms and conditions as the governing body may deem advisable and as shall not conflict with the provisions of this act, and to grant options to renew or extend any such lease upon such terms and conditions as the governing body may determine, provided that no lease shall extend beyond the last maturity of any bonds issued by the municipality or 60 years from the date of the lease, whichever is the longer; and no option to renew shall permit the extension of any lease beyond such period; (4) to issue revenue bonds for the purpose of defraying the cost of acquiring, improving, enlarging, expanding, equipping or furnishing any project, and to secure the payment of such bonds, all as hereinafter provided; and (5) to enter into contracts and agreements and to do any act necessary for, or incidental to, the performance of the duties and the execution of its powers under this act.

Section 4. BONDS ISSUED TO FINANCE PROJECTS. All bonds issued by a municipality under authority of this act shall be limited obligations of the municipality the principal of and interest on which shall be payable solely out of the revenues derived from the leasing of the project to finance which the bonds are issued. Bonds and interest coupons issued under the authority of this act shall never constitute an indebtedness of the municipality within the meaning of any state constitutional provision or statutory limitation, and shall never constitute nor give rise to a pecuniary liability of the municipality or a charge against its general credit or taxing powers, and such fact shall be plainly stated in the face of each such bond. Such bonds may be executed and delivered at any time and from time to time, may be in such form and denominations, may be of such tenor, may be in registered or bearer form either as to principal or interest or both, may be payable in such installments, in such amounts and at such time or times not exceeding forty years from the date thereof, may be payable at such place or places, whether within or without the State of Alabama, may bear interest at such rate or rates payable at such place or places

and evidenced in such manner, and may contain such provisions not inconsistent herewith, all as shall be provided in the proceedings of the governing body whereunder the bonds shall be authorized to be issued. The bonds issued hereunder shall not be subject to the laws of the State of Alabama governing usury or limiting interest rates, including without limitation, the provisions of Chapter 6 of Title 9 of the Code of Alabama of 1940. The bonds issued hereunder shall be subject to the general provisions of law, presently existing or that may hereafter be enacted, respecting the execution of the bonds of a municipality and respecting the retaining of options of redemption in proceedings authorizing the issuance of municipal securities. Any bonds issued under the authority of this act may be sold at public or private sale in such manner and from time to time as may be determined by the governing body to be most advantageous, and the municipality may pay all expenses, premiums and commissions which the governing body may deem necessary or advantageous in connection with the authorization, sale and issuance thereof. All bonds issued under the authority of this act and all interest coupons applicable thereto shall be construed to be negotiable instruments, despite the fact that they are payable solely from a specified source.

Section 5. SECURITY FOR BONDS. The principal of and interest on any bonds issued under the authority of this act shall be secured by a pledge of the revenues out of which such bonds shall be made payable, may be secured by a mortgage covering all or any part of the project from which the revenues so pledged may be derived, and may be secured by a pledge of the lease of such project. The proceedings under which such bonds are authorized to be issued or any such mortgage may contain any agreements and provisions customarily contained in instruments securing bonds, including, without limiting the generality of the foregoing, provisions respecting the fixing and collection of rents for any project covered by such proceedings or mortgage, the terms to be incorporated in the lease of such project, the maintenance and insurance of such project, the creation and maintenance of special funds from the revenues from such project, and the rights and remedies available in event of default to the bondholders or to the trustee under a mortgage, all as the governing body shall deem advisable and as shall not be in conflict with the provisions of this act; provided, however, that in making any such agreements or provisions a municipality shall not have the power to obligate itself except with respect to the project and the application of the revenues therefrom, and shall not have the power to incur a pecuniary liability or a charge upon its general credit or against its taxing powers. The pro-

ceedings authorizing any bonds hereunder and any mortgage securing such bonds may provide that, in the event of default in payment of the principal of or the interest on such bonds or in the performance of any agreement contained in such proceedings or mortgage, such payment and performance may be enforced by mandamus or by the appointment of a receiver in equity with power to charge and collect rents and to apply the revenues from the project in accordance with such proceedings or the provisions of such mortgage. Any such mortgage may provide also that, in the event of default in such payment or the violation of any agreement contained in the mortgage, the mortgage may be foreclosed either by sale at public outcry or by proceedings in equity, and may provide that any trustee under such mortgage or the holder of any of the bonds secured thereby may become the purchaser at any foreclosure sale if the highest bidder therefor. No breach of any such agreement shall impose any pecuniary liability upon a municipality or any charge upon its general credit or against its taxing powers.

Section 6. REQUIREMENTS RESPECTING LEASE. Prior to the leasing of any project, the governing body must determine and find the following: the amount necessary in each year to pay the principal of and the interest on the bonds proposed to be issued to finance such project; the amount necessary to be paid each year into any reserve funds which the governing body may deem it advisable to establish in connection with the retirement of the proposed bonds and the maintenance of the project; and, unless the terms under which the project is to be leased provide that the lessee shall maintain the project and carry all proper insurance with respect thereto, the estimated cost of maintaining the project in good repair and keeping it properly insured. The determinations and findings of the governing body required to be made in the preceding sentence shall be set forth in the proceedings under which the proposed bonds are to be issued; and prior to the issuance of such bonds, the municipality shall lease the project to a lessee under an agreement providing for payment to the municipality of such rentals as, upon the basis of such determinations and findings, will be sufficient (a) to pay the principal of and interest on the bonds issued to finance the project, (b) to build up and maintain any reserves deemed by the governing body to be advisable in connection therewith, and (c) unless the agreement of lease obligates the lessee to pay for the maintenance and insurance of the project, to pay the costs of maintaining the project in good repair and keeping it properly insured.

Section 7. REFUNDING BONDS. Any bonds issued hereunder and at any time outstanding may at any time and

from time to time be refunded by a municipality by the issuance of its refunding bonds in such amount as the governing body may deem necessary but not exceeding an amount sufficient to refund the principal of the bonds so to be refunded, together with any unpaid interest thereon, any premiums and commissions necessary to be paid in connection therewith and the expenses incurred in connection with such refunding. Any such refunding may be effected whether the bonds to be refunded shall have then matured or shall thereafter mature, either by sale of the refunding bonds and the application of the proceeds thereof for the payment, redemption or retirement of the bonds to be refunded thereby, or by exchange of the refunding bonds for the bonds to be refunded thereby, or by any combination thereof; provided, that the holders of any bonds so to be refunded shall not be compelled without their consent to surrender their bonds for payment or exchange prior to the date on which they are payable or, if they are called for redemption, prior to the date on which they are by their terms subject to redemption. Any refunding bonds issued under the authority of this act shall be payable solely from the revenues out of which the bonds to be refunded thereby were payable, and shall be subject to the provisions contained in Section 4 of this act and may be secured in accordance with the provisions of Section 5 of this act.

Section 8. USE OF PROCEEDS FROM SALE OF BONDS. The proceeds derived from the sale of any bonds issued under authority of this act (other than refunding bonds) shall be used only to pay the cost of acquiring, constructing, improving, enlarging, equipping and furnishing one or more projects, as may be provided in the proceedings in which the bonds are authorized to be issued. Such cost shall be deemed to include the following: the cost of acquiring any land forming a part of the project; the cost of the labor, materials and supplies used in any such construction, improvement or enlargement, including architect's and engineer's fees and the cost of preparing contract documents; the purchase price of and the cost of installing equipment, furniture and furnishings for the project; the cost of landscaping the lands forming a part of the project and of constructing and installing roads, sidewalks, curbs, gutters, utilities, and parking facilities in connection therewith; legal, fiscal and recording fees and expenses incurred in connection with any such acquisition and construction and with the authorization, sale and issuance of the bonds issued in connection with the project; and interest on the bonds for a reasonable period prior to the commencement of the construction of the project, and during the period that it is estimated will be required for such construc-

tion and for a period of not more than six months after the completion of such construction. If any proceeds derived from the sale of the bonds remain undisbursed after completion of the work and payment of all costs and expenses in connection with the project with respect to which the bonds are issued, such balance shall be applied toward the retirement of the bonds. The proceeds derived from the sale of any refunding bonds shall be used only for the purposes for which the refunding bonds were authorized to be issued.

Section 9. NO CONTRIBUTION BY MUNICIPALITY. No municipality shall have the power to pay out of its general funds or otherwise contribute any part of the costs of acquiring a project, and shall not have the power to use land already owned by the municipality, or in which the municipality has an equity, for construction thereon of a project or any part thereof. The entire cost of acquiring any project must be paid out of the proceeds from the sale of bonds issued under the authority of this act; provided, however, that this provision shall not be construed to prevent a municipality from accepting donations of property to be used as a part of any project or money to be used for defraying any part of the cost of any project or from requiring any lessee of a project to pay the cost of completing such project in the event the proceeds from the sale of the bonds are insufficient therefor.

Section 10. BONDS MADE LEGAL INVESTMENTS. Bonds issued under the provisions of this act shall be legal investments for savings banks and insurance companies organized under the laws of this state.

Section 11. EXEMPTION FROM TAXATION. The bonds authorized by this act and the income therefrom, all mortgages executed as security therefor, all lease agreements made pursuant to the provisions hereof, any deeds or other documents whereby properties are acquired by a municipality under authority of this act, and all projects and the revenue derived from any lease thereof shall be exempt from all taxation in the State of Alabama.

Section 12. CONSTRUCTION OF ACT. Neither this act nor anything herein contained shall be construed as a restriction or limitation upon any powers which a municipality might otherwise have under any laws of this state, but shall be construed as cumulative; and this act shall not be construed as requiring an election by the voters of a municipality prior to the issuance of bonds hereunder by such municipality.

Section 13. NO NOTICE OR PUBLICATION REQUIRED. No notice to or consent or approval by any governmental body or public officer shall be required as a prerequisite to the sale

or issuance of any bonds or the making of a mortgage under the authority of this act.

Section 14. SEVERABILITY. If any section, clause, provision or portion of this act shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause or provision of this act which is not in and of itself unconstitutional.

Section 15. EFFECTIVE DATE. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973

Time: 4:55 P.M.

Act No. 813 H. 339—Smith (P), Warren, Wise, Benton, Wallace, Hobbie, Barkett, Chesnut, Mims, Drake, Connell, Doss, Culver, Lang, Grainger, Easters

AN ACT

To make an appropriation to the department of agriculture and industries for the two fiscal years ending September 30, 1974 and September 30, 1975, to indemnify owners of swine for the value of any swine ordered condemned and destroyed for the prevention and eradication of the disease of cholera and African swine fever.

Be It Enacted by the Legislature of Alabama:

Section 1. For each of the two fiscal years ending September 30, 1974 and September 30, 1975, there is hereby appropriated to the department of agriculture and industries out of any monies in the state treasury not otherwise appropriated the sum of One Hundred Thousand Dollars ($100,000), or so much thereof as may be necessary, during each of the said two fiscal years, which said sum shall be used and expended by said department for the purpose of paying and indemnifying the owners of swine for the value of any swine ordered and directed to be condemned and destroyed by the commisioner of agriculture and industries or the state veterinarian for the purpose of arresting, eradicating and preventing the spread of hog cholera disease and African swine fever. The amount of any payments to owners of swine from the appropriation herein made shall be determined pursuant to the procedure and method set forth under Sections 17-26 of Act No. 694, Legislature of 1947, approved October 9, 1947, (Sections 383 (17) - (26) of Title 2, Code of Alabama, Recompiled, 1958).

Section 2. The appropriation herein made shall be conditioned upon the condition of the general fund and with the approval of the Governor.

Section 3. This Act shall become effective immediately upon October 1, 1973.

Approved September 5, 1973.

Time: 4:55 P.M.

Act No. 814 H. 566—Turnham, Brassell, Adams

AN ACT

Relating to the thirty-seventh judicial circuit; providing for additional circuit court judge in such circuit.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby created an additional judgeship for the thirty-seventh judicial circuit, which shall be designated as judgeship number 2. The existing judgeship shall continue to be designated as judgeship number 1. An additional judge shall be appointed for the circuit by the Governor, within ten days after the effective circuit by the Governor, within ten days after the effective date of this Act, who shall hold office until his successor is elected and qualified as provided in Article VI, Sections 158 and 159, of the Constitution of Alabama. The judge for the additional judgeship shall be elected thereafter as other circuit judges in this state.

Section 2. The judge appointed or elected as provided in Section 1 of this Act shall have and exercise all the jurisdiction, power, right and authority; shall possess all of the qualifications; shall perform all of the duties required; shall have all of the authority to appoint reporters, clerical help and other court officers allowed by law; and shall be subject to all the pains and penalties of such office as the other circuit judges are subject to in the same circuit.

Section 3. The compensation of such judge, including expense allowances and supplements, shall be paid in the same amount, from the same source, and under the same terms and manner as that of the other judges in the circuit.

Section 4. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. All laws or parts of laws which conflict with this act are repealed.

Section 6. This act shall become effective immediately upon its approval by the Governor or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 4:55 P.M.

Act No. 815 H. 1114—Burgess

AN ACT

To amend Section 2, Act No. 312, Acts of Alabama 1959, Vol. 2, p. 889 and 890, by changing "old age assistance purposes only" to "general welfare purposes" in the authorization for the use of funds.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 2 of Act No. 312, Acts of Alabama 1959, Vol. 2 p, 889 at 890, is hereby amended to read as follows:

"Section 2. Levy of Tax. In addition to all other taxes of every kind now imposed by law, and in addition to any marked-up price authorized or required by law, there is hereby levied and shall be collected a tax at the rate of ten percent (10%) upon the selling price of all spirituous or vinous liquors sold by the Board. The tax hereby imposed shall be collected by the Board from the purchaser at the time the purchase price is paid. One-half of the proceeds derived from the tax shall be deposited in the state treasury to the credit of the Public Welfare Trust Fund and shall be used for general welfare purposes and is hereby appropriated therefor. The remainder of such proceeds from the tax herein levied shall be deposited in the state treasury to the credit of a special fund which shall be designated the Alabama Special Mental Health Fund, and shall be used only for mental health purposes, including the prevention of mental illness, the care and treatment of the mentally ill and the mentally deficient, and the acquisition, equipment, operation and maintenance of facilities for mental health purposes. Provided, that during the biennium beginning October 1, 1959 and ending September 30, 1961 such deposits shall be credited to these special funds in the state treasury at the end of each month, and then only in the event there shall have been deposited by the Board in the ABC Stores Fund and the Public Welfare Trust Fund during such month such amounts as may be equal to or greater than 105.5 percent of the amounts

deposited in such funds during the corresponding month of the preceding fiscal year; if lesser amounts were so deposited, then as much of the proceeds of the tax levied in this Act as may be needed to make up the deficit shall be diverted for such purpose and the remainder of such proceeds shall be deposited as hereinabove provided. In this Act, "general welfare purposes" means (1) The administration of public assistance as set out in Sections 5 and 13, Act No. 703, 1951 Acts, page 1219, codified in the recompiled Code of Alabama 1958, as Title 49, Sections 17 (6) and 17 (14), (2) services, including supplementation and supplementary services under the Federal Social Security Act, to or on behalf of persons to whom such public assistance may be given under said Section 13 of Act No. 703, 1951 Acts, and (3) services to and on behalf of dependent, neglected, or delinquent children; and (4) investigative and referral services to and on behalf of needy persons.

Section 2. This Act shall become effective upon the first day of the calendar month immediately following its passage and approval by the Governor or its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:00 P.M.

Act No. 816 H. 756—Hill, Lyons, Turner, Flippo, Hearn, Hale, Jones (F)

AN ACT

To provide for the creation of a department of the state to be known as the Department of Youth Services; to prescribe the powers and duties of the said department; to provide for the creation of the Alabama Youth Services board; to provide for the selection of the members of the said board; to prescribe the powers and duties of the board; to provide for the appointment of a State Youth Services Director, and to prescribe the powers, duties, and qualifications of the said Director; to transfer control of the state training schools to the department; to provide court review of the decisions of the said board; to provide for reports to the Governor; to provide for the submission of an annual budget; to require competitive bidding; to authorize medical, psychiatric, surgical, and dental care for the youth of the state; to provide for the treatment, education, and disposition of youth in the custody of the said department of the said board; and to prescribe penalties for the violation of this Act.

Be It Enacted by the Legislature of Alabama:

Section 1. Purpose. The purpose of this Act is to promote and safeguard the social well-being and general welfare of the youth of the state through a comprehensive and coordi-

nated program of public services for the prevention of juvenile delinquency and the rehabilitation of delinquent youth. This State program shall provide the following: social and educational services and facilities for any youth whom a juvenile judge deems in need of such state services; the establishment of standards for social and educational services and facilities for such youth; cooperation with public and voluntary agencies, organizations, and citizen groups in the development and coordination of programs and activities directed toward the prevention, control and treatment of delinquency; the promotion and improvement of community conditions, programs, and resources to aid parents in discharging their responsibilities for the care, development and well-being of their children; and the promotion of improved communications between the public and voluntary agencies and bodies of this state responsible for said youth, and the juvenile courts of this state.

Section 2. Definitions. The following terms, wherever used in this Act, shall have the following respective meanings unless the content thereof clearly indicates otherwise:

(a) "Aftercare" means a youth is released by the Department from a state training school operated by the Department wherein the Department releases legal custody, supervision, and the right to return until further order of the juvenile court

Aftercare means a legal status created by order of the committing court at the time of release from a state training school whereby a youth is permitted to return to the community subject to supervision by the court or any agency designated by the court and subject to return to the court at any time during the aftercare period.

(b) "Board" means the Alabama Youth Services Board.

(c) "Board member" means any member of the Alabama Youth Services Board.

(d) "Committed youth" means any youth committed to the legal custody of the department upon a finding of delinquency and a finding by a juvenile judge that said youth is in need of care/treatment in a state training school; provided that it shall not include any youth so committed upon a finding of neglect or dependency.

(e) "Department" means the Department of Youth Services established herein.

(f) "Detention" or "detention care" means temporary care in a detention facility.

(g) "Detention facility" means a facility, other than a

jail, affording secure custody for children and youths as licensed by the department.

(h) "Director" means the Alabama Youth Services Director.

(i) "Discharge" means a complete release of a committed youth by the department without further supervision.

(j) "Foster care facility" or "group home" means any place providing care for one or more youths alleged or adjudicated delinquent, exclusive of the state training schools.

(k) 'Guardian" means any parent who has legal custody of the person or property of a youth or a person or agency who has custody of the person or property of the said youth pursuant to a court order.

(l) "Juvenile court" means any court established pursuant to the provisions of Title 13 of the Code of Alabama of 1940, as amended, and including any court established by local act of the Legislature of Alabama which exercises juvenile court functions in any county in the state.

(m) "Juvenile Court Act" or "Juvenile Code" means Chapter 7 of Title 13 of the Code of Alabama of 1940, as amended.

(n) "Legal custody" means a legal status created by a court order embodying the following rights and responsibilities: the right to have physical possession of the youth; the right and the duty to protect, train and discipline him; the responsibility to provide him with food, clothing, shelter, education, and medical, dental and hospital care; and the right to determine where and with whom he shall reside.

(o) "Maintenance" means all general expenses for care such as food, clothing, shelter, education, and medical, dental and hospital care, transportation, and other necessary or incidental expenses or money payments therefor.

(p) "Probation" means a legal status created by a court order following adjudication in a delinquency case whereby a youth is permitted to remain in the community, subject to supervision by the court or any agency designated by the court and subject to return to the court at any time during the probation period.

(q) "Probation services" means: (1) the making of investigations, reports, and recommendations to the court as directed by the State Code; (2) the receiving and examining of complaints and charges of delinquency for the purpose of considering the commencement of proceedings under the State

Code; (3) the supervision of a child placed on probation by order of the court; (4) the supervision of a child placed on aftercare by order of the court; (5) the making of appropriate referrals to other private or public agencies of the community, if their assistance appears to be needed or desirable; (6) the taking into custody and detaining of a youth who is under the supervision and care of the department as a delinquent where there is reasonable cause to believe that the youth's health, or safety, or that of another is in imminent danger, or that he may abscond or be moved from the jurisdiction of the court, or when ordered by the court pursuant to the juvenile code; and (7) the performing of all other functions designated by the juvenile code or by order of the court pursuant thereto.

(r) "State" means the State of Alabama.

(s) "Training school" means an institution operated by the Department for the rehabilitation of delinquent youth.

(t) "Youth" means any person who has not reached his sixteenth birthday for whom a petition has been filed alleging delinquency based on actions the said person is alleged to have committed before his sixteenth birthday, or as provided by law relating to local or state jurisdiction, and for the purpose of continuing to provide service only, any person under the age of twenty-one who is already on probation or in aftercare or in the legal custody of the department.

(u) "Youth Services" means the duties and functions which are authorized or required by this Act to be provided by the department with respect to the establishment and enforcement of standards of treatment for youths.

Section 3. Creation and Composition of Department. There is hereby created and established a department of the state to be known as the Department of Youth Services. The department shall be composed of the board, the director, and such divisions and administrative sections as the board may establish. The principal offices of the department shall be located at the state capital. The department shall have the powers and duties and shall perform the functions hereinafter prescribed.

Section 4. Creation of Board. There is hereby created and established the Alabama Youth Services Board. The principal offices of the board shall be located at the state capital. The board shall have the powers and duties and shall perform the functions hereinafter described.

Section 5. Members, Officers and Proceedings of the Board. The Governor shall be the ex-officio chairman of the board.

The board shall be composed of sixteen (16) voting members, five of whom shall be the Commissioner of the State Department of Pensions and Security, the State Superintendent of Education, the Commissioner of the State Department of Mental Health, and the State Health Officer, and the Director of the Alabama Law Enforcement Planning Agency, each of whom may delegate his/her vote to any agent/employee of the said agencies by written notification ten days prior to a meeting of the board. The chairman, vice-chairman and secretary of the board shall be elected by the members thereof. The chairman shall vote only in the case of a tie. The Speaker of the Alabama House of Representatives shall appoint one member to be selected from the membership of said House who has demonstrated some interest in the field of juvenile delinquency prevention and treatment, and the presiding officer of the Alabama Senate shall appoint one member to be selected from the membership of said Senate who has demonstrated some interest in the field of juvenile delinquency prevention and interest. The president of the Alabama Council of Juvenile Court Judges shall appoint one member to be selected from the membership of said council. The chairman of the Alabama Chief Probation Officers Association shall appoint one member to be selected from the membership of said Association. The Governor shall appoint the remaining seven (7) members of the Board, as representatives of the public, one such member to be selected from each of the congressional districts of the state as they existed on January 19, 1972.

The term of each member representative of the public appointed by the Governor shall be determined by lot at the first meeting of the board following the effective date of this Act. Two of such members shall serve five-year terms, two shall serve two year terms, and one each shall serve three, four, and six year terms, respectively. Thereafter the term of any such member representative of the public shall be six years. The terms of office of the appointed legislative members shall be for the duration of their respective elected terms of office to the Senate or House of Representatives. The term of office of the member representative of the Alabama Council of Juvenile Court Judges and the member representative of the Chief Probation Officers Association shall be for six years. If any appointed legislative member should die, cease to be a member of the Legislature or resign from the board, such vacancy shall be filled by the Speaker of the House or presiding officer of the Senate, such member to be selected from the respective legislative body. If the appointed juvenile court judge should die, cease to be a juvenile court judge or resign from the board, the President of the Alabama

Council of Juvenile Court Judges shall appoint a successor for the unexpired term of such a member. If the appointed chief probation officer should die, cease to be a probation officer or resign from the board, the Chairman of the Alabama Chief Probation Officers Association shall appoint a successor for the unexpired term of such a member. If a vacancy occurs in the appointed membership, upon certification thereof by the board, the Governor shall appoint a person to fill the vacancy for the unexpired term of said member. Any nine (9) members of the board shall constitute a quorum thereof for the transaction of business. If any person holding any state office named in this section should cease to hold such office by reason of death, resignation, expiration of term of office, or for any other reason, then his successor in office shall take his place as a member of the board. No member of the board shall draw any salary in addition to that now authorized by law for any service he may render or for any deed he may perform in connection with the board. The member representative of the Alabama Council of Juvenile Court Judges, the member representative of the Alabama Chief Probation Officers Association and each member representative of the public shall receive twenty-five dollars ($25.00) per day and mileage expense at the state rate of mileage reimbursement while attending meetings of the board or while engaged in other official duties at the request of the board. The legislative members shall receive their regular legislative compensation and mileage when actively engaged in board business. All proceedings of the board shall be reduced to writing by the secretary of the board, shall be signed by at least six members of the board, and shall be recorded in a substantially bound book and filed in the office of the secretary who shall be the custodian of the records of the board. Copies of such proceedings, when certified by the secretary of the board shall be received in all courts as prima facie evidence of the matters and things therein set forth.

Section 6. Powers of the Board. The board shall have the following powers: (a) to appoint the director and to fix his salary; (b) to institute and defend legal proceedings in any court of competent jurisdiction and proper venue; (c) to contract with any private person, organization, or entity or any combination thereof capable of contracting, if it finds such act to be in the public interest.

Section 7. Transfer of Control of State Training Schools. As soon as practicable after the board takes office, it shall establish a plan for the transfer of control of the Alabama Boys Industrial School, the Alabama Training School for Girls, and the Alabama Industrial School from their respective boards of trustees. Such transfer shall be effective as soon as prac-

ticable and feasible and not later than October 1, 1975. Upon completion of the transfer of such control, the Board of Trustees of the Alabama Boys Industrial School, the Board of Trustees of the Alabama Training School for Girls, and the Board of Trustees of the Alabama Industrial School shall be abolished. All duties, responsibilities, authority, power, assets, appropriations, liabilities, contractual rights and obligations, and property rights, whether accruing or vesting in the aforementioned institutions before or after the effective date of this Act, shall be vested in the board on the effective date of transfer of functions; provided, however, that it is the intention of the Legislature that out of moneys available to the board the first priority shall be given to insuring that the services provided by and in the financial resources available to the Alabama Boys Industrial School, the Alabama Training School for Girls, and the Alabama Industrial School shall be maintained at least at the present level. On the date of transfer of responsibility provided for herein, all youths in the custody of or committed to the Alabama Boys Industrial School, the Alabama Training School for Girls, and the Alabama Industrial School, shall be transferred to the legal custody of the department. The department shall establish separate advisory boards for the Alabama Boys Industrial School, the Alabama Training School for Girls, and the Alabama Industrial School. Any regulation of the aforementioned institutions shall be made a regulation of the department on the date of transfer of responsibility and shall continue in force until repealed or amended by the board. Employees of the Alabama Boys Industrial School, the Alabama Training School for Girls, and the Alabama Industrial School holding positions on the date of transfer shall become employees of the department on the date of such transfer. Such employees of the above-mentioned institutions shall continue to enjoy employment conditions, including salary, housing, and office arrangements, at a level no less than those enjoyed prior to transfer to the department. Any reference to any one or more of the said institutions contained in the Code of Alabama of 1940, as amended, or in any act of the Legislature of Alabama, shall, unless the context clearly requires a different meaning, be construed to mean the department.

Section 8. Provisions for Juvenile Court Probation Officers. The Department shall provide salary subsidies for probation services to all Alabama counties. The Department shall expend funds to match at least half of the probation officers' salaries according to the following formula. At a minimum, each county will receive funding for one juvenile probation officer per 20,000 population or fraction thereof. The Department shall use the last federal decennial census for these

determinations. The various counties shall provide the necessary matching funds for these subsidies. If there are counties of under 30,000 population which do not provide matching funds, the Department is authorized at its discretion to fully subsidize one probation officer per such county.

The Department shall establish and promulgate reasonable minimum standards for certification of juvenile probation officers. Any person serving as a juvenile probation officer as of the date of passage of this Act shall be considered to meet the requirements of the Department. The existing level of state support for county juvenile probation officers employed by counties as of the date of passage of this Act shall not be reduced. Any funds heretofore or hereafter appropriated for the purpose of carrying out the provisions of Act No. 880 of the 1965 Regular Session are hereby transferred to the Department hereby created; and all such funds shall be used by each Department for providing matching funds for salaries of juvenile probation officers. All funds expended by the Department will be contingent upon the recipients of said funds meeting the standards established by the Department.

The responsibilities of the Department of Pensions and Security exercised pursuant to law relating to probation, parole, and foster care services to a minor who is an adjudicated delinquent shall cease effective January 1, 1976; it being the intention of the Legislature that these functions shall be performed by the Department of Youth Services. Any responsibilities of the Department of Pensions and Security relating to probation services to a court when a petition alleging delinquency has been filed, shall cease effective January 1, 1976. Provided, however, that the authority of the Department of Pensions and Security to continue to give services and provide foster care for a child who is dependent, neglected, or under insufficient guardianship shall continue. Provided further that the Department of Pensions and Security, if appointed by a court of competent jurisdiction, shall perform the functions of a probation officer of the court in cases involving children who are dependent, neglected, under insufficient guardianship, and otherwise handicapped children.

Section 9. Provision for Standards, Licensing, Inspection, Consultation, Training and Subsidies to Counties.

The Department is authorized and directed to establish and promulgate reasonable minimum standards for the construction and operation of detention facilities, programs for the prevention and correction of youth delinquency, in service training for probation officers, consultation from local officials and subsidies to local delinquency projects. The said standards shall include, but not be limited to, reasonable minimum

standards for detention facilities, foster care facilities, group homes, correctional institutions, and aftercare services.

On or after January 1, 1974, no county or city in the state or any public or private agency, group, corporation, partnership, or individual shall establish, maintain, or operate any detention facility or any foster care facility for youths found delinquent by a juvenile court, without a license from the Department. A license shall be required on an annual basis, or as determined by the Department. The Department shall revoke the license of any city, county, or public or private agency, group, corporation, or individual conducting, operating, or acting as a detention facility, or foster care facility caring for children and youths alleged or adjudged to be delinquent, that fails to meet the standards prescribed by the Department. The Department is authorized to visit and inspect any public or voluntary detention facility, foster care facility or group home as it deems necessary.

The Department is authorized to develop standards for probation and aftercare services. The Department shall provide consultation upon request by the juvenile court judges and staffs of the county administered programs as to the standards for probation and aftercare services, and conduct in-service training to aid in the development of services which are in accord with the standards.

Section 10. Provision for Youth Detention Facilities and Subsidies.

The functions and facilities related to youth detention facilities, licensed by the Department or previously licensed by the State Department of Pensions and Security, of each county or counties acting together may, upon the express written agreement of each such county or such counties acting together, and the Department, receive funds from the Department according to formulae for disbursement established by the Department and in accordance with the terms of written agreements between each such county, or such counties acting together, and the Department relative to detention care. Any county, or counties acting together, shall retain control of such detention functions and detention facilities, and shall continue to have financial responsibility for their operation, unless otherwise provided for by the Department. All detention programs and facilities shall maintain standards prescribed by the Department. All funds expended by the Department will be contingent upon the recipients of said funds meeting the standards established by the Department.

Section 11. The State Youth Services Director; Duties, Powers, Qualifications.

The director shall have the following powers and duties: (a) subject to the provisions of the state merit system, to appoint all officers and employees of the Department, or to authorize any superintendent, division or bureau head, or other administrator to select with his approval all staff members and employees; (b) to exercise supervision over all the officers and employees of the Department, and should any such officer or employee fail to perform faithfully any of the duties which are lawfully prescribed for him, or if he fails or refuses to observe or conform to any rule, regulation, or policy of the board, to remove him from office, in conformity with the state merit system law; (c) to make agreements with the heads of other executive departments of the state providing for the coordination of the functions of the various departments of the state; and the director shall also serve as the Administrator of the Interstate Compact on Juveniles hereinafter referred to.

The Director to be employed shall have at a minimum a master's degree in Behavioral or Social Science or related field from an accredited school and shall have at least six (6) years experience in the field of services to children and youth, with at least three (3) years of that experience being in the field of juvenile delinquency services. The last three years of such experience must have been in an administrative and/or management position with demonstrated competence as indicated by promotion or other indications of responsibility. The director may be removed from office by a vote of nine members of the board for reasons fully set forth in the minutes of the meeting at which such removal takes place.

Section 12. Development of Department Program. As soon as practical after the effective date of this Act, the Department shall proceed to develop a workable program of youth services as follows: (a) to collect statistics, information, and data concerning the need for and condition of rehabilitative services to delinquent youth throughout the state; (b) to disseminate information to the public and to appropriate public and private agencies and organizations within the state on the conditions and needs thus ascertained; (c) to serve in a consultative and licensing capacity and develop materials and standards concerning delinquent youth within the state; (d) to enlist the participation of citizens and representatives of other agencies and organizations in the planning and development throughout the state of an adequate youth services program as provided for in this Act; (e) to cooperate with and assist other public and voluntary agencies and organizations in the development and coordination of programs and activities for youths, particularly those programs and activities which contribute to

the prevention or treatment of delinquency; (f) to collaborate with others in the establishment of state-wide and local planning bodies, or to assist and cooperate with any such existing bodies which are concerned with promoting the physical, mental, emotional, and social well-being of youths; (g) to assist local communities in making surveys of conditions contributing to delinquency and of the facilities and services provided to rehabilitate committed youths; and (h) to prescribe and furnish uniform procedures and forms for all law enforcement agencies and court clerks to use in reporting contacts with youths.

Section 13. Duties and Functions of Department. As soon as practical after the effective date of this Act, the Department shall have the following duties and functions: (a) to provide services for youths who have run away from their own communities in this state, or from their home communities in other states to this state, and to provide such services, care, or cost for such youths as may be required pursuant to the provisions of Act No. 675 adopted at the 1965 Regular Session of the Legislature of Alabama (hereinafter "Interstate Compact on Juveniles"); (b) to provide for the expansion of local detention care for youths alleged to be delinquent pending court hearing; (c) to encourage the expansion of juvenile probation services to youths alleged or adjudged to be delinquent; (c) to establish and promulgate reasonable minimum standards for juvenile probation services; (d) to establish and promulgate reasonable minimum standards for juvenile probation officers and certify any applicant meeting such standards for the position of juvenile probation officer; (f) to secure the provision of medical, hospital, psychiatric, surgical, or dental service, or payment of the cost of such services as may be needed for committed youths; (f) to license and subsidize foster care facilities or group homes for youths alleged to be delinquent pending hearing before a juvenile court or adjudged delinquent following such hearing, including detention, examination, study, care, treatment and training; (g) to establish, maintain and subsidize programs to train employees of the Department, juvenile courts, and law enforcement personnel in such subject matters and techniques as may be necessary to assure efficient and effective administration of such services in accordance with the purpose of this Act; (h) to make and enforce all rules and regulations which are necessary and appropriate to the proper accomplishment of the duties and functions vested in the Department by law with respect to youth services and which do not conflict with or exceed the provisions of law vesting such duties and functions in the Department.

Section 14. Additional Powers of the Department. The

Department is hereby given the following additional and cumulative powers: (a) to enter into contracts with any other state or federal agency, or with any private person, organization or group capable of contracting, if it finds such action to be in the public interest; (b) upon approval of the Attorney General of the state, to file and prosecute suits in any court in the name of the Department to enforce the provisions of this Act and to enforce such rules and regulations as may be duly promulgated under the provisions of this Act; such suits may include actions for an injunction to restrain any person, agency, or organization from violating any provision of this Act or any rule or regulation duly promulgated under the provisions of this Act; (d) to accept gifts, trusts, bequests, grants, endowments, or transfers of property of any kind and prudently to manage such property in accordance with sound financial principles; (e) to prescribe for and furnish forms to clerks of probate and juvenile courts for use in connection with any action to be taken under the provisions of this Act; (f) to enter into reciprocal agreements with appropriate agencies of other states relative to youth services programs; and (g) to engage in research in the field of youth services, to enter into contracts with public or voluntary organizations including educational institutions, and with individuals, for the purpose of securing such research and to make provisions for any pay grants to such organizations or individuals in accordance with the rules of the Department, as may be necessary to secure the performance of such research.

The employees of the Department shall be governed by the personnel merit system rules and regulations of the State Personnel Department. Employees of institutions and agencies which are transferred to the Department under the provisions of this Act, who have been so employed for six months immediately preceding such date shall remain in their respective employments, and shall be considered to meet the requirements of the Department in terms of training and experience; but nothing herein shall be construed to prevent or preclude the removal of an employee for cause in the manner provided by law.

Section 15. Additional Powers of the Board. The board is hereby given the following additional and cumulative powers: (a) to establish and promulgate reasonable rules, policies, orders, and regulations for the carrying out of its duties and responsibilities; (b) to purchase or lease land or to acquire property by eminent domain and to purchase, lease, let, sell, exchange, or otherwise transfer property, land, or buildings in order to carry out its duties and responsibilities under the provisions of this Act; and (c) to hold such meetings as are convenient and necessary, which shall be at least annually, to

carry out its duties and responsibilities at such place or places within the state as it may direct, and a quorum consisting of any nine members of the board shall be competent to act at all regular or special meetings. Special meetings may be called by the Chairman of the board or by any three members of the board upon one week's written notice to every member of the board, which notice shall state the purpose of the meeting.

Section 16. Legal Division. The director shall be authorized, subject to the provisions of the state merit system law, to appoint legal counsel for the Department. Such counsel shall be commissioned as assistant attorney generals except that they shall devote their entire time to the business of the Department. Salaries for such counsel will be paid by the Department.

Section 17. Court Review. Any person aggrieved by any final order or decision of the board may have a review of such order or decision in the Circuit Court of Montgomery County, provided a sworn bill is filed within fifteen (15) days of the date of such order or decision, charging that such order or decisions was arbitrary, illegal or capricious. The review granted by this section shall be cumulative with that provided elsewhere in the laws of Alabama.

Section 18. Report to the Governor. As soon after the end of a fiscal year as practicable the board shall print and send to the Governor of Alabama a report to include the activities of the board, the need for facilities under its jurisdiction, juvenile service conditions in the state, plans for the future, financial reports for the preceding year, and the names and addresses of the members of the board. A sufficient number of copies of such report shall be printed and distributed to the members of the Legislature of Alabama.

Section 19. Budget. Each biennium the board shall present to the Governor a request for funds based on projected needs for juvenile services in the state, together with a budget showing proposed expenditures; and the Governor shall include in his appropriation bill a request for funds to meet the reasonable financial needs of the Department.

Section 20. Competitive Bids. Any purchase and any construction or supply contract of the Department in an amount in excess of ($500) shall be made or let by competitive bids through the state purchasing agent or otherwise, as the board may direct. No purchases, except for rights of way, shall be made from nor shall any sales be made to any member of the legislature, any member of the board, any employee of the Department, or any other person holding an office of the state.

Section 21. Study and Evaluation of Youth. When the legal custody of a youth has been vested in the Department by order of the juvenile judge, the Department shall, under rules established by it, study and evaluate such youth and investigate all pertinent circumstances of his behavior and life in order to prepare a service plan while he/she is detained in the state training schools. Data concerning such youth secured in any previous study and evaluation undertaken under this Act may be utilized by the Department in lieu of or in supplementation of a new study and evaluation. The police authorities, the school authorities, and other public officials and agencies of the state or any county or municipality in the state, shall upon the request of the Department promptly make available to the Department all pertinent information in their possession with respect to a youth whose custody is vested in the Department; provided, however, that this subsection shall not require any disclosure which would be inconsistent with the requirements of any federal statute or regulation under which grants are made to the state or any state law. The Department shall make available its findings pursuant to this section to any juvenile court in the state.

Section 22. Guardianship of Youth. If at any time while legal custody of a youth is vested in the Department, the Department learns that he/she, for any reason, does not have a natural or adoptive parent in a position to exercise effective guardianship or a legally appointed guardian of his/her person, the Department may thereupon file a petition in the appropriate court for the appointment of a guardian of the person or property of such youth. No officer or employee of the Department shall accept appointment as the guardian of a youth, whose legal custody is vested in the Department.

Section 23. Determination of Social Service Plan. When legal custody of a youth has been vested in the Department and so long as such legal custody is so vested in the Department, the Department may, after an objective consideration of all available information, take one of the following social service actions: (a) the Department may place the youth in a State training school within the state, or in another state in accordance with the provisions of the Interstate Compact on Juveniles, under such conditions as it believes best designed for his welfare or the protection of the public; (b) the Department may release the youth to the jurisdiction of the committing court; (c) the Department may arrange temporary return or a trial visit of the youth to his own home, as often as conditions appear desirable; (d) the Department may revoke or modify any social service plan as often as conditions appear desirable.

The committing court shall be kept informed by the Department of the physical location of the youth at all times.

Section 24. Authorization of Medical, Psychiatric, Surgical and Dental Treatment.

The director or his delegate may authorize major surgery or medical treatment to be performed upon any committed youth or general anesthetic to be administered to a committed youth when it is deemed necessary by a licensed medical physician and approval by the parent or guardian is acquired. If such approval is not given or the parent or guardian is unavailable for two weeks, the director or his delegate may apply to the juvenile court in the county where the child is confined for an order to undertake such surgery or treatment. A ruling must be made within twenty-four hours by the said juvenile judge.

The director or his delegate may authorize major surgery or medical treatment to be performed upon any committed youth or general anesthetic to be administered to a committed youth when it is deemed an emergency situation where a child has suffered serious injury or is experiencing severe pain or his/her life is endangered and such judgment is made by a licensed medical physician. The director shall within forty-eight (48) hours notify in writing the juvenile court in the county where the child is confined and the parent or guardian of such action. A copy of the report shall be sent to the committing court.

Section 25. Confinement of Youth by Department in Adult Penal Institutions Prohibited.

The Department shall not have the power, by virtue of the vesting in it of the legal custody of a youth or of anything contained in this Act, to confine any youth in any adult jail or adult penal institutions now or hereafter established.

Section 26. Review of Committed Youth. The Department shall make a periodic review in the case of each youth whose legal custody is vested in the Department who has not been finally discharged. Such review shall be in the form of a written report to the committing court and shall include study of all pertinent circumstances of his personal and family situation and shall be for the purpose of determining whether existing decisions, orders and dispositions in his case should be modified or continued in force. Such review may be made as frequently as the Department deems necessary and shall be made with respect to every youth at least every nine (9) months. The Department shall review the case of each youth transferred to its control from another agency or department

by virtue of the transfer of authority and responsibility of other agencies and departments provided for in this Act within six (6) months after custody is vested in the Department.

Section 27. Detention of Committed Youth Without Order or Warrant.

A committed youth who has been placed by the Department in any state training school and who has escaped or run away therefrom may be taken into custody without warrant or order of the director by a peace officer or employee designated by the Department. Any youth taken into custody, pursuant to this section, shall be detained in a suitable place designated by the Department until determination concerning his further care and treatment is made.

Section 28. Petition for Review by the Director or Court.

In the event any committed youth has not been examined as provided in Section 21 of this Act or has not been reviewed within nine (9) months of a previous review as provided in Section 26 of this Act, such youth or his parent or guardian shall be entitled to petition the director for such examination or review and to have his petition given prompt consideration in accordance with appropriate rules established therefor. In the event such petition to the director has not been granted or where it has not been acted upon within thirty (30) days such youth or his parent or guardian shall be entitled to petition the committing court for such examination and review, and the same shall be granted. Pending the determination of such a petition by the court, the authority of the Department to take such action as it may deem necessary with respect to such youth shall in no way be affected.

Section 29. Aftercare, Discharge, and Termination of Order Vesting Legal Custody in Department

In the event a committed youth shall be diagnosed in writing as mentally ill to the degree that said youth is unable to profit from the programs operated by the Department for the benefit of delinquent youth, the Department may petition the proper court for the commitment of the said youth to the state hospital for the mentally ill. The diagnosis must be made by a person who is legally and professionally qualified under the laws of Alabama to make such a diagnosis.

In the event a committed youth shall be diagnosed in writing as mentally retarded to the degree that said youth is unable to profit from the programs operated by the department for the benefit of delinquent youth, the Department may petition the proper court for the commitment of the said youth

to the state hospital for the mentally retarded. The diagnosis must be made by a person who is legally and professionally qualified under the laws of Alabama to make such a diagnosis.

A committed youth shall be discharged who in the judgment of the director has gained optimal rehabilitation from the programs of the Department and will not be received again by the Department under the original commitment order.

A committed youth shall be released into aftercare when the Department determines that said youth is no longer in need of the services of the state training schools and can function within open society under the supervision of a probation officer in accordance with terms and conditions as established by the committing court. The Department shall notify the committing court in writing at least ten (10) days in advance of the release. Legal jurisdiction shall revest in the committing court and aftercare supervisor will be undertaken at the court's direction. The committing court at the time of release into aftercare shall then invest custody in a party which the court deems suitable.

The committing court shall have jurisdiction to extend an order of commitment during the time of aftercare and to issue further orders in relation to the investment of legal custody in some other party until the youth reaches his twenty-first (21st) birthday only upon proper petitions being filed with the said court by a probation officer alleging all reasons for any aftercare extension or change of legal custody. A hearing shall be held in said juvenile court within ten (10) days after the filing of the petition to determine whether the youth's aftercare should be extended, for no more than six (6) months.

When a committed youth has fulfilled his period of commitment, he/she shall be discharged from the Department's custody and any recommitment to the Department must be based on a new offense and a new hearing.

In the event that a youth has not been discharged prior to the expiration of two (2) years from the date of the entry of the original commitment order, the Department must request either (a) the termination of the commitment order and the issuance of such other orders respecting the legal custody and continued supervision of the youth as may be warranted under the circumstances; or (b) the extension of the original order for a further specifically limited period of time, on the grounds that such extension is necessary for the welfare of the youth or for the public interest, such extension not to exceed the date upon which the youth will reach the age of twenty-one (21) years. There must be a hearing

at which the youth and his/her parent, guardian or counsel are present. The commiting court shall have jurisdiction until the youth reaches his twenty-first (21st) birthday to issue an extension of its original commitment order. If the Department does not act as prescribed in this paragraph, custody awarded by the commitment order is terminated and such order as regards such youth has no further force and effect after the expiration of two years.

Upon the youth's reaching his twenty-first birthday, custody awarded bythe commitment order is terminated and such order as regards such person has no further force and effect.

Section 30. Clothing, Money and Transportation Furnished Upon Release

The department shall insure that each youth it releases from the state training schools has clothing, transportation to his home, or to the place at which a suitable home or employment has been found for him, and such an amount of money as the rules of the Department shall authorize.

Section 31. Records of Examinations. The Department shall keep adequate written records of all social studies and examinations and of the conclusions based thereon, and of all major decisions and orders concerning the disposition or treatment of every youth for whom the Department provided social services and care pursuant to this Act.

Section 32. Use of Records. It shall be unlawful, except for purposes directly connected with the administration of this Act, or as herein provided, and in accordance with regulations of the Department, for any person or persons to solicit, disclose, receive, or make use of, or authorize, knowingly permit, participate in, or acquiesce in the use of any information concerning any youth for whom the Department provides social services or care in accordance with the provisions of this Act, and derived from the records, papers, files, or communications of the Department, or of any agency or facility utilized by the Department in providing services to any youth or acquired in the course of the performance of official duties.

Nothing contained in this section shall preclude the disclosure of information secured in the performance of functions under this Act upon order of the court which vested legal custody of the youth in the Department, in any one of the following circumstances: (a) in subsequent proceedings for delinquency involving the same youth; (b) to other youth care agencies which subsequently provide services to the said youth; (c) in any issue of custody before a court in which the court finds that such disclosure is necessary to protect

the general welfare of the youth; (d) for research purposes where anonymity is preserved.

Section 33. Referral from Federal Government. The Department is authorized to serve as an agent of the state in entering into agreements with any appropriate agency of the federal government to provide care and treatment for a youth found by a federal court to be delinquent and committed to the custody of the Attorney General of the United States. Such agreement shall be upon such terms and conditions and shall provide for such compensation as may be mutually agreed upon between the Department and the appropriate agency of the federal government. Funds received as compensation under such agreement shall be placed in the state treasury and are hereby appropriated for the use of the Department for carrying out the provisions of this Act.

Section 34. Appropriation. There are no new funds to be directly appropriated for the implementation of this statute. All monies appropriated to the Alabama Industrial School, Alabama Boys' Industrial School, and the Alabama State Training School for Girls from the Special Education Trust Funds, shall be used solely for the operations of these institutions.

Any funds heretofore or hereafter appropriated for the purpose of carrying out the provisions of Act No. 880 of the Regular Session of 1965 are hereby transferred to the Department of Youth Services to be used for the implementation of Sec. 8 of this Act and such other functions and duties as the Youth Services Board may determine are necessary and proper.

Section 35. Penalities. Violations of the provisions of the Act shall be penalized or punished as follows: (a) any person, partnership, corporation, or association that violates the provisions of this Act or any regulations promulgated under the authority delegated to the board or to the director, after notice of such violation served upon such person, partnership, corporation or association by United States registered mail to the last known address thereof, shall be liable to pay to the Department a penalty of fifty dollars ($50) per day for each day such violation continues after receipt of such notice; (b) and any person, group of persons, association or corporation who (i) conducts, operates, or acts as a foster care facility or detention facility without a license, or an approval to do so in violation of the provisions of this Act; (ii) makes materially false statements in order to obtain a license or permit; (iii) fails to keep the records and make the reports provided under this Act; (iv) advertises any service not author-

ized by license or permit held; (v) publishes any advertisement in violation of this Act; or (vi) violates any other provision of this Act or any reasonable rule or regulation adopted and published by the Department for the enforcement of the provisions of this Act, shall be guilty of a misdemeanor and shall be fined not less than $100 nor more than $1,000 or be imprisoned in the county jail not longer than one year, or both, and in case of an association or corporation, imprisonment may be imposed upon its officers who knowingly participated in the violation; (c) any person who shall allow, assist, aid, or abet in the escape of any juvenile confined by court action or pursuant to the authority of the board or Department, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not more than one hundred dollars ($100) or by imprisonment in the county jail in the county in which such act shall occur at hard labor for the said county for not more than 90 days, or by both such fine and imprisonment as the court may decide; (d) any member of the legislature, any member of the board, any employee of the Department or any holder of any office of the state, who takes any contract, for work or services for the board, the Department, or any of their agencies, or is employed in any way under such contract or sells any goods or supplies to the board, the Department, or any of their agencies, or is in any way pecuniarily interested in any such contract or sale, as principal or agent, must, on conviction, be fined not less than $50 nor more than $1,000 and also shall forfeit his office or employment; (e) it shall be the duty of every district attorney, deputy district attorney, county or other solicitor, to institute action for the enforcement of the provisions of this Act or prosecute action for the violation of the provisions of this Act, or both.

Section 36. Severability. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 37. Donations and Endowment Funds. Notwithstanding the provisions contained in the other sections of this Bill and in order to make provision for the proper preservation and application of donations from private sources by gift, devise or otherwise, heretofore made to the Board of Trustees of the Alabama Boys Industrial School, the Board of Trustees of the Alabama Training School for Girls, or the Board of Trustees of the Alabama Industrial School for the uses and purposes intended by the private donors and in order to encourage future donations from private sources by way of gift, devise or otherwise to said schools and assure prospective private donors of the use thereof at the particular

school or schools designated as the object of donations and to prohibit the diversion of past and future donations to said schools from the uses and purposes for which the same were made, each of the boards of trustees of the Alabama Boys Industrial School, the Alabama Training School for Girls, and the Alabama Industrial School is authorized and empowered to set up and establish an endowment trust fund for its respective school, to enter into an agreement with a bank or banks organized either under the national banking laws or the banking laws of this state and having trust powers, to serve as trustee for the endowment trust fund, to make provision for designation of successor trustee or trustees, to transfer to the trustee or trustees of the endowment trust fund in trust for the benefit of said school and for the uses and purposes intended by the donors thereof stocks, bonds, securities and cash together with any accretion thereto and unexpended income therefrom heretofore donated by private sources to said school or to the board of trustees thereof for the use and benefit of said school, to authorize the trustee or trustees to accept the transferred property and any future donations from private sources for the benefit of the particular school involved, manage the trust property in a prudent manner in accordance with sound financial principles and pay out so much of the income therefrom and/or of the principal as may be required by appropriate resolutions adopted and approved by the board of trustees of the particular school involved or upon the abolition of said board of trustees, then by the advisory board established for said particular school pursuant to the provisions of Section 7 of this Bill, to provide for release of the trustee or trustees from any liability for any payment out of the trust fund made pursuant to any resolution of said board of trustees or advisory board, and to provide in the event of disestablishment of the particular school for the termination of its endowment trust fund and transfer of trust property then on hand to the Department of Youth Services for use for the particular uses and purposes of each separate endowment fund then included in the trust or if such use has ceased to be practicable then for such use as in the Department's judgment constitutes an equitable approximation of such uses and purposes. The trustee or trustees of any endowment trust fund established pursuant to this section shall periodically, not less infrequently than once every three years, make a full accounting of its handling of the trust estate to the board of trustees of the particular school involved or upon the abolition of said board of trustees, then to the advisory board of said school, and written approval of the trustee's or trustees' accounts by either of said boards shall be final and binding and have the same full force and effect as a partial final settlement or final settlement, as the case

may be, had the accounting been accomplished through judicial proceedings. The board of trustees of a school establishing an endowment trust fund pursuant to this section and the advisory board of said school are prohibited from authorizing or directing any payment out of the endowment trust fund of said school for any purposes contrary to the expressed uses and purposes of the private donors of a donation constituting a part of the school's endowment trust fund.

Section 38. Repealer. The following Act is hereby expressly repealed on the date that the General Fund Appropriation bill becomes law: Act No. 880 adopted at the 1965 Regular Session of the Legislature of Alabama. Funds or moneys that would have been made available for implementation of Act No. 880 of the 1965 Regular Session of the Legislature of Alabama, shall hereby be available for such lawful purposes as set out in this Bill. The following Acts are hereby expressly repealed effective October 1, 1975: Chapter 36, Sections 570-584 of Title 52 of the Code of Alabama of 1940, as amended; Chapter 37, Sections 585-591, inclusive 593, 597-600, inclusive, and 602 of the Code of Alabama of 1940 as amended; and Chapter 38, Sec. 613(1)-613(15) inclusive. All other laws or parts of laws in conflict with the provisions of this Act are hereby amended on the effective date of this Act, provided, however, that: the Department of Pensions and Security of the State of Alabama shall continue to license child care institutions, group homes and foster homes for children alleged or adjudicated delinquent pursuant to Act No. 174 adopted at the 1971 Third Special Session of the Legislature of Alabama until January 1, 1974; and the commissioner of the state department of pensions and security shall continue to be the Administrator of the Interstate Compact on Juveniles pursuant to Act No. 675 adopted at the 1965 Regular Session of the Legislature of Alabama until July 1, 1974.

Section 39. Effective Date. This Act shall become effective immediately upon its approval by the Governor, or upon its otherwise becoming law.

Approved September 5, 1973.

Time: 5:00 P.M.

Act No. 817 H. 1023—Mathews

AN ACT

To further identify creditable years of service under the Employee's Retirement System of Alabama, and Teachers' Retirement System of Alabama.

Be It Enacted by the Legislature of Alabama:

Section 1. Any person who is presently covered or is eligible to be covered under the Employees' Retirement System of Alabama or the Teachers' Retirement System of Alabama and who, prior to such coverage or eligibility for coverage, served as an elective official of the State Government or a department head authorized to exercise sovereign power of the State, shall have credited to him or her one year of creditable service for each year served as such elected official or department head not to exceed eight years; provided such person shall pay into the Retirement System the employee's part of the cost or contribution based on the salary paid to such person during the time of his or her service as an elected official or department head, with such cost or contribution to be calculated at the percent or rate in effect at the time of the passage of this Act.

Section 2. This Act shall apply only to those persons who, at the time of their retirement, have sufficient creditable years of service under the Employees' or Teachers' Retirement System to equal ten years inclusive of the years earned as an elected official or department head.

Section 3. The employee's contribution for the years of service as an elected official or department head shall be paid by such employee within sixty days after he or she shall have completed the necessary years of employment as set out in Section 2 hereof, except that, should said employee have completed the necessary years of service as outlined above and in Section 2 hereof, he or she then shall pay said contribution within 60 days of the passage of this Act.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:00 P.M.

Act No. 818 H. 1060—Hobbie, Jones (F), Barron, Taylor, Robertson, Hearn

AN ACT

To further amend Section 9 of Act No. 833, S. 128, Regular Session 1965 (Acts 1965, p. 1564), as amended, which provides for payment of insurance costs by the state for employees of the state, so as to delete the maximum amount which may be expended for an individual employee's insurance.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 9 of Act No. 833, S. 128, Regular Session 1965 (Acts 1965, p. 1564), as amended, is further amended to read as follows:

"Section 9. The State Employees' Insurance Board is hereby authorized to provide, under the contract, or contracts, entered into, under the provisions of this act, that the cost of such insurance benefit plan for coverage of the employee shall be paid by the employer.

"In addition, each employee shall be entitled to have his spouse and dependent children, as defined by the rules and regulations of the Board, included in the coverage provided upon agreeing to pay the costs of such coverage for such dependents. The Board shall adopt regulations governing the discontinuance and resumption by such employees of coverage for dependents.

"(1) The employer shall mean the fund from which the salaries of such insured employees are paid. There is hereby appropriated annually from each fund amounts sufficient to provide the employer's cost of the insurance benefit plan. In the case of those departments supported wholly by transfers from other state funds, there is hereby appropriated from the supporting funds such additional amounts as may be necessary to pay the sums required to pay the premium costs of employees of each department so supported in the same proportion as the other state funds contribute to the support and maintenance of such department.

"(2) During any period in which an employee's dependents are covered under this act, there shall be withheld from the salary payment of such employee the entire premium cost for coverage of such dependents under the terms of any contract, or contracts, entered into in accordance with the provisions of this act.

"(3) There is hereby created in the State Treasury a fund to be known as the State Employees' Insurance Fund. Such fund shall consist of and there shall be deposited into such fund all appropriations made from employer funds, under the provision of sub-section (1) of this Section and all premiums paid by employees under the provisions of subsection (2) of this Section and any other premiums paid under the provisions of this act. The Board shall designate a custodian of this fund who shall be authorized to make deposits into and payments therefrom in accordance with contracts entered into by said Board."

Section 2. This act shall become effective immediately

upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:00 P.M.

Act No. 819 H. 1108—Burgess

AN ACT

To amend further Code of Alabama 1940, Title 51, Section 741, as amended by Act No. 73, Section 2, Acts of Alabama 1955, Vol. I, p. 188 at pp 190-191, by changing "old age assistance purposes only" to "general welfare purposes" in the authorization for the use of funds."

Be It Enacted by the Legislature of Alabama:

Section 1. Code of Alabama 1940, Title 51, Section 741, as amended, is further amended to read as follows:

"Section 741. To whom revenues paid; how paid. All revenues collected under the provisions of this subdivision except as otherwise provided, shall be paid to the Department of Revenue by check or draft made payable to t e treasurer of Alabama, and shall be distributed in the following manner: One-fourth of that revenue derived from the tax levied upon cigarettes by Section 718 and one-fourth of the tax levied upon cigarettes by Section 745 shall be deposited in the State Treasury to the credit of the State Public Welfare Trust Fund and is hereby appropriated for general welfare purposes; the balance of the revenue collected under the provisions of Section 718 and Section 745 of this Title shall be deposited in the State Treasury to the credit of the Alabama Special Educational Trust Fund. In this Act, "general welfare purposes" means (1) The administration of public assistance as set out in Sections 5 and 13, Act No. 703, Acts 1951, page 1219, codified in the recompiled Code of Alabama 1958, as Title 49, Sections 17 (6) and 17 (14), (2) services, including supplementation and supplementary services under the Federal Social Security Act, to or on behalf of persons to whom such public assistance may be given under said Section 13 of Act No. 703, 1951 Acts, and (3) services to and on behalf of dependent, neglected, or delinquent children; and (4) investigative and referral services to and on behalf of needy persons.

Section 2. This Act shall become effective upon the first day of the calendar month immediately following its passage and approval by the Governor or its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:00 P.M.

Act No. 820 H. 1109—Burgess

AN ACT

To amend further Code of Alabama 1940, Title 51, Section 350, as amended, by Act No. 74, Acts of Alabama 1955, Vol. I, p. 191 at p. 192; and as further amended by Act No. 103, Acts of Alabama 1971, Vol. 1, pp 184-186, by changing "old age assistance purposes only" to "general welfare purposes" in the authorization for the use of funds.

Be It Enacted by the Legislature of Alabama:

Section 1. Code of Alabama 1940, Title 51, Section 350, as amended, is further amended to read as follows:

"Section 350. Remittance of tax. — Remittance of the franchise tax required by the above sections shall be made to the department of revenue, at Montgomery, Alabama, with checks payable to the state treasurer of Alabama. Two twenty fifth of the franchise tax collected shall be apportioned by the department of revenue to the several counties in which the corporation does business, in proportion to the amount of taxable property of such corporation in each of said counties, and the comptroller shall draw his warrant payable to the county treasurer of each county in such proportion upon certificate of the department of revenue. One fifth of the franchise tax collected shall be deposited in the state treasury to the credit of the state public welfare trust fund and is hereby appropriated for general welfare purposes, the remainder of said tax shall be paid by the department of revenue to the general fund. In this Act, "general welfare purposes" means (1) The administration of public assistance as set out in Sections 5 and 13, Act No. 703, 1951 Acts, page 1219, codified in the recompiled Code of Alabama 1958, as Title 49, Sections 17 (6) and 17 (14), (2) services, including supplementation and supplementary services under the Federal Social Security Act, to or on behalf of persons to whom such public assistance may be given under said Section 13 of Act No. 703, 1951 Acts, and (3) services to and on behalf of dependent, neglected, or delinquent children; and (4) investigative and referral services to and on behalf of needy persons.

Section 2. This Act shall become effective upon the first day of the calendar month immediately following its passage and approval by the Governor or its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:00 P.M.

Act No. 821 H. 1110—Burgess

AN ACT

To amend further Act No. 92, Special Session, 1963, Acts of Alabama 1963, Vol. I, p. 257 at p. 258, as amended, by Act No. 135, Acts of Alabama 1964, pp 199-200, by changing "old age assistance purposes only" to "general welfare purposes" in the authorization of the use of funds.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 4 of Act No. 92, Second Special Session, 1963, Acts of Alabama 1963, Vol. I, p. 257 at p. 258, as amended, is further amended to read as follows:

"Section 4. Distribution of Proceeds. The proceeds of the tax herein levied shall be distributed as follows:

"(a) one-seventh of said proceeds shall be paid into the State Treasury to the credit of the sixty-seven counties in the State and shall be divided and distributed equally on or before the 15th day of each month to the said counties;

"(b) two-sevenths of said proceeds shall be paid into the State Treasury to the credit of the State Public Welfare Trust Fund and shall be used for general welfare purposes. In this Act, "general welfare purposes" means (1) The administration of public assistance as set out in Sections 5 and 13, Act No. 703, 1951 Acts, page 1219, codified in the recompiled Code of Alabama 1958, as Title 49, Sections 17 (6) and 17 (14), (2) services, including supplementation and supplementary services under the Federal Social Security Act, to or on behalf of persons to whom such public assistance may be given under said Section 13 of Act No. 703, 1951 Acts, and (3) services to and on behalf of dependent, neglected, or delinquent children; and (4) investigative and referral services to and on behalf of needy persons.

"(c) The residue of said proceeds thereafter remaining shall be paid into the State Treasury to the credit of the Alabama special educational trust fund, and so much thereof as may be necessary for the purpose is hereby appropriated to pay the principal of and interest on bonds, not exceeding $30,000,000 in aggregate principal amount, issued and sold by the public corporation known as the Alabama Trade School and Junior College Authority."

Section 2. This Act shall become effective upon the first day of the calendar month immediately following its passage and approval by the Governor, or its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:00 P.M.

Act No. 822 H. 1111—Burgess

AN ACT

To further amend Section 5 of Act No. 298, Regular Session, 1947, General Acts of Alabama 1947, p. 149, as amended, by Act No. 589, Acts of Alabama 1963, Vol. II, pp 1285-1287; as further amended by Act No. 766, Acts of Alabama 1965, Vol. II, p. 1378, by changing "old age assistance purposes only" to general welfare purposes" in the authorization for the use of funds.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 5 of Act No. 298, Regular Session 1947, General Acts of Alabama 1947, p. 149, as amended, is further amended to read as follows:

"Section 5. The revenue derived from filing fees paid under this Act shall be paid into the State Treasury to the credit of the Beer Tax and License Fund of the Alabama Alcoholic Beverage Control Board. The revenue derived from the license taxes imposed by the Act shall be paid into the State Treasury and shall be distributed as follows: One-half part thereof shall be credited to the State Public Welfare Trust Fund and shall be used for general welfare purposes; the remainder of such proceeds shall be set aside in the Special Mental Health Fund and shall be used only for mental health purposes; including the prevention of mental illness, the care and treatment of the mentally ill and the mentally deficient, the acquisition, equipment, operation and maintenance of facilities for mental health purposes, the establishment and operation of regional and community mental health clinics, the training of mental health personnel and drugs for medically indigent, non hospitalized mental patients. The Student Scholarship Fund is here abolished and any monies remaining in said fund, on the effective date of this Act, shall be deposited into the Treasury to the credit of the Special Mental Health Fund. In this Act, "general welfare purposes" means (1) The administration of public assistance as set out in Sections 5 and 13, Act No. 703, 1951 Acts, page 1219, codified in the recompiled Code of Alabama 1958, as Title 49, Section 17 (6) and 17 (14), (2) services, including supplementation and supplementary services under the Federal Social Security Act, to or on behalf of persons to whom such public assistance may be given under said Section 13 of Act No. 703, 1951 Acts, and (3) services to and on behalf of dependent, neglected, or delinquent children; and (4) investigative and referral services to and on behalf of needy persons.

Section 2. This Act shall become effective upon the first day of the calendar month immediately following its passage and approval by the Governor or its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:00 P.M.

Act No. 823 H. 1112—Burgess

AN ACT

To amend Act No. 100, Section 32, Second Special Session, 1959, Acts of Alabama 1959, Vol. I, p. 298 at pp 314-315, the Alabama Sales Tax Law, by changing "old age assistance purposes only" to "general welfare purposes" in the authorization for the use of funds.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 32 of Act No. 100, Second Special Session, 1959, Acts of Alabama 1959, Vol. I, p. 298 at pp 314-315, the Alabama Sales Tax, is amended to read as follows:

"Section 32. Such amount of money as shall be appropriated for each fiscal year by the legislature to the department of revenue with which to pay the salaries, the cost of operation and management of said department shall be deducted, as a first charge thereon, from the taxes collected under the provisions of this Act; provided, however, that the expenditure of said sum so appropriated shall be budgeted and allotted pursuant to Title 55, Article 3, Chapter 4, of the Code of Alabama 1940, and limited to the amount appropriated to defray the expenses of operating said department for each fiscal year. After the payment of the expenses, so much of the amount remaining as may be necessary, after first applying all sums of money received by reason of the application of the surplus in the income tax as provided by Section 424, Title 51, Code of Alabama 1940, for the replacement in the public school fund of the three-mill constitutional levy for schools and in the general fund of the one-mill levy for soldiers' relief and the two and one-half mills for general purposes lost by exemption of homestead provided for in this Act shall be first charges against the proceeds of said Licenses, taxes, or receipts levied or collected under this Act. The comptroller, with the approval of the governor, is hereby directed to draw his warrants payable out of the total proceeds of said licenses, taxes or receipts levied or collected under this Act as herein provided in such sum as shall be found necessary to take care of and replace the three-mill constitutional school levy, the one-mill soldiers' relief levy and the two and one-half mill levy for general purposes of the state ad valorem taxes lost as above set forth. If the amounts of such collections in any fiscal year, remaining after the payment of the expenses of administration and replacement of the amounts

in the several funds as herein provided, is equal to four million, two hundred thousand dollars, then the sum of three hundred seventy-eight thousand dollars shall be paid into the treasury to the credit of the sixty-seven counties of the state, to be divided and distributed as hereinafter provided. If the amount of such collections in any fiscal year, remaining after the payment of expenses of administration, and the replacement of the amounts in the several funds derived from the state six and one-half mill tax, as herein provided, is less than four million, two hundred thousand dollars, then an amount equal to nine percent thereof shall be paid into the treasury to the credit of the sixty-seven counties of the state to be divided and distributed as hereinafter provided. The amount deposited to the credit of the sixty-seven counties as above provided (which in no one fiscal year shall exceed nine percent of the amount of collections remaining after the payment of the expenses and charges herein first required to be paid, nor shall it in any event exceed the sum of three hundred, seventy-eight thousand dollars for any one fiscal year) shall be divided and distributed as follows: One-half of said proceeds shall be divided and distributed proportionately among the sixty-seven counties of the state according to the population of the said counties as shown by the last federal census as proclaimed, published, or certified by the director of the bureau of the census; and one-half of said proceeds shall be divided or distributed equally among sixty-seven counties; provided that the funds divided and distributed to the several counties of the state as hereinabove provided for shall be used exclusively for full-time health service in cooperation with the state board of health or the federal government; and for extension services in cooperation with the Alabama agriculture extension service or the federal government, at the discretion of the commissioners court, boards of revenue, or other governing bodies of the several counties of the state. If the amounts of such collections in any fiscal year, after the payment of the expenses of administration and replacement of the amounts in the several funds as herein provided, is equal to four million, two hundred thousand dollars, then the sum of six hundred, seventy-two thousand dollars shall be paid into the treasury to the credit of the state department of public welfare to be used for general welfare purposes. If the amount of such collections in any fiscal year, remaining after the expenses of administration and the replacement of the amounts in the several funds derived from the state's six and one-half mills tax, as herein provided, is less than four million two hundred thousand dollars, then an amount equal to sixteen percent thereof shall be paid into the treasury to the credit of the state department of public welfare to be used for general welfare purposes. If the amount of such

collections in any fiscal year, remaining after the payment of the expenses of administration and replacement of the amounts in the several funds as hereinabove provided and distributed is greater than four million, two hundred thousand dollars, then an amount equal to one-fourth of such excess shall be paid into the treasury to the credit of the state department of public welfare to be used for general welfare purposes; provided, however, that this one-fourth of such excess shall not exceed the sum of six hundred, fifty thousand dollars per annum. The amount of the proceeds of all taxes levied by this Act remaining after the payment of the expenses of administration and enforcement and the replacement in the several funds of the amount lost by any homestead exemptions and the distribution to the sixty-seven counties as herein provided shall be paid into the Alabama special educational trust fund. In this Act, "general welfare purposes" means (1) The administration of the public assistance as set out in Sections 5 and 13, Act No. 703, 1951 Acts, page 1219, codified in the recompiled Code of Alabama 1958, as Title 49, Sections 17 (6) and 17 (14), (2) services, including supplementation and supplementary services under the Federal Social Security Act, to or on behalf of persons to whom such public assistance may be given under said Section 13 of Act No. 703, 1951 Acts, and (3) services to and on behalf of dependent, neglected, or delinquent children; and (4) investigative and referral services to and on behalf of needy persons."

Section 2. This Act shall become effective upon the first day of the calendar month immediately following its passage and approval by the Governor or its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:00 P.M.

Act No. 824 H. 1113—Burgess

AN ACT

To amend Act No. 78, Second Special Session, 1955, Acts of Alabama 1955, Vol. 1, p. 199, by changing "old age assistance purposes only" to "general welfare purposes" in the authorization for the use of funds.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act No. 78, Second Special Session, 1955, Acts of Alabama 1955, Vol. I, p. 199, is amended to read as follows:

"Section 1. In addition to all other taxes of every kind now imposed by law, and in addition to any marked-up price authorized or required by law, there is hereby levied and shall be collected a tax at the rate of ten per cent (10%) upon the selling price of all spirituous or vinous liquors sold by the Alabama Alcoholic Beverage Control Board. The tax hereby imposed shall be collected by the Board from the purchaser at the time the purchase price is paid. In computing the proceeds of this tax, the board shall divide the total sales of spirituous and vinous liquors made by it by a factor of 110 and multiply the quotient by 100 and by 10. An amount equal to the quotient multiplied by 100 shall be deposited in the State Treasury to the credit of the Alcoholic Beverage Control Board Store Fund; and an amount equal to the quotient multiplied by 10 shall be deposited in the State Treasury to the credit of the Public Welfare Trust Fund and shall be used for general welfare purposes, and is hereby appropriated therefor. In this Act, "general welfare purposes" means (1) The administration of public assistance as set out in Sections 5 and 13, Act No. 703, 1951 Acts, pages 1219, codified in the recompiled Code of Alabama 1958, as Title 49, Sections 17 (6) and 17 (14), (2) services, including supplementation and supplementary services under the Federal Social Security Act, to or on behalf of persons to whom such public assistance may be given under said Section 13 of Act No. 703, 1951 Acts, and (3) services to and on behalf of dependent, neglected or delinquent children; and (4) investigative and referral services to and on behalf of needy persons."

Section 2. This Act shall become effective upon its first day of the calendar month immediately following its passage and approval by the Governor or its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:00 P.M.

Act No. 825 H. 1132—Owens, Lyons

AN ACT

To provide a method by which an insurance company incorporated under the laws of this State may, by resolution of its board of directors, apply any part or all of its capital surplus to the elimination or reduction of any deficit, however incurred.

Be It Enacted by the Legislature of Alabama:

Section 1. For the purposes of this Act the following words and phrases shall have the following meanings:

"Domestic stock insurer" is a corporation incorporated under the laws of the State of Alabama with its capital divided into shares and owned by its stockholders which is engaged as indemnitor, surety or contractor in the business of entering into contracts of insurance.

"Capital surplus" shall have the meaning given thereto in the statutes of this State relating to the powers and procedures of domestic private corporations formed for profit.

"Earned surplus" shall have the meaning given thereto in the statutes of this State relating to the powers and procedures of domestic private corporations formed for profit.

Section 2. A domestic stock insurer which has the minimum unimpaired paid-in capital stock required for the transaction of insurance by such domestic stock insurer by the statutes of this State governing domestic stock insurers may, by resolution of its board of directors, apply any part or all of its capital surplus to the reduction or elimination of any deficit, however, incurred, but only after first eliminating the then earned surplus, if any, of the domestic stock insurer by applying such earned surplus against such deficit. Each such application of capital surplus shall to the extent thereof, effect a reduction of capital surplus.

Section 3. All laws or parts of laws which conflict with this Act are repealed.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:00 P.M.

Act No. 826 H. 1248—Stokes, Roberts, Wood, Downing, Callahan, Lyons

AN ACT

To supplement Act No. 107 adopted at the 1965 First Special Session of the Legislature of Alabama, as heretofore amended, so as to provide a comprehensive system of law applicable to any corporation organized pursuant to the said Act, the service area of which includes a resort area and which has obtained the express approval of the governing body of each county in which it carries on its operations to exercise the powers conferred hereby; to permit such a corporation to construct improvements consisting of sanitary sewers and sewer facilities in resort areas located within its service area which are outside the corporate limits of any municipality and within the service area of such

corporation; to provide a method for the assessment of the cost of any such improvements against the property abutting on, or drained, served, or benefited by such improvements; to require the adoption of a resolution describing the improvement and the property abutting on, or the area to be drained, served or benefited by such improvement; to require the filing of plans and specifications for such improvement; to provide for publication and mailing of notice of the adoption of the said resolution; to provide for a public hearing on such improvement; to provide for payment of the cost of the improvement; to provide for public advertisement for bids for the construction of the improvement; to provide for supervision of the work; to provide for the levy of assessments on the property benefited by any improvement; to provide for the preparation of a list of owners and parcels to be assessed, and therein; to provide for a hearing on the proposed assessments and publication of notice of such list; to provide for any defects or errors making the same final; to provide for the establishment of a lien on the property subject to the assessments and for the priority thereof; to provide for the reduction or abatement of certain assessments; to authorize the transfer and assignment of such liens, and for the enforcement thereof; to specify other provisions with respect to such liens; to provide a system for appeals from the making of such final assessment; to provide a system for payment of all assessments and for default in such payments; to authorize lands subject to such liens to be sold in satisfaction thereof and a system for the redemption of such lands after any such sale; to establish a procedure for the termination of any right of redemption; to provide a system for the issuance of notes or bonds to finance any such improvements; to exempt any securities issued hereunder from Chapter 6 of Title 12 of the Code of Alabama of 1940, as heretofore or hereafter amended; to specify requirements with respect to any such notes or bonds; to require public sale thereof with certain exceptions; to provide for the refunding thereof under specified circumstances; to provide that any such bond shall be incontestable after a specified period; to provide that all such bonds and notes and the interest thereon shall be exempt from taxation; to provide for the replacement of lost, destroyed or mutilated bonds and for the refunding of outstanding bonds; to establish sinking fund accounts for the payment of bonds and for the grouping of improvements for a single bond issue; to specify the use of funds received from the said assessments and to establish liability on official bonds for the handling of such funds; to provide for a refund of excess collections in ertain circumstances; to provide for the effect of annexation or incorporation of an area in which assessments have been made; to provide for the severability of the provisions of this act and for the repeal of inconsistent laws; and to establish the effective date of this act.

Be It Enacted by the Legislature of Alabama:

Section 1. Definitions. The following words and phrases shall have the following meanings wherever used in this act except where the context clearly indicates a different meaning:

"Authority" means a public corporation organized pursuant to the provisions of Act No. 107, adopted at the 1965 First Special Session of the Legislature, as amended.

"Board" means the board of directors of an authority.

"Governing body" means the governing body of a county.

"Improvement" means any sanitary sewage treatment or

sewage disposal plant, or any sanitary sewer, including mains, laterals, trunk lines, collector lines, outfall lines, force mains, and appurtenant facilities.

"Resort area" means an area located outside the corporate limits of any municipality in which the primary use of the majority of the real property is for recreational pursuits or those associated with relaxation, advocation, or pleasure, including vacation homes and facilities and commercial amusement or recreational establishments providing such facilities or goods or services with respect thereto.

"Property" means only land which has been sub-divided and platted.

Section 2. Legislative findings, consent of governing body required. The Legislative hereby finds, determines and declares that it is necessary and desirable that authorities whose service area includes a resort area be authorized to exercise the powers herein granted, after proper action by a governing body or bodies, since the predominant use of improvements in such resort areas is seasonal and service use charges may not provide an adequate and feasible basis for financing such improvements. No authority shall exercise any of the powers granted in this act except in that part of its service area that is a resort area and then only if the governing body of each county in which any part of its service area is located has consented to the exercise of such powers, evidenced by the adoption of a resolution spread upon its minutes, naming the authority, finding that its service area includes or constitutes a resort area (which shall be described in such resolution by a concise legal description), finding that no part of the resort area so described lies within the corporate limits of any municipality, finding that it is necessary or desirable that the authority have and exercise such powers, and giving such consent. The findings so made by the governing body shall be conclusive for all purposes.

Section 3. Powers of authorities. Any authority authorized pursuant hereto may design, or cause to be designed, contract for, and execute, or cause to be executed, the construction or reconstruction of any improvement in its service area and may cause the cost and expense of all or any part of any such improvement to be assessed against the property abutting on, or drained, served, or benefited by, such improvement, to the extent of the increased value of the said property by reason of the special benefits derived from the said improvement.

Section 4. Resolution describing improvement desired, and ordering the drawing of plans and specifications. When the board shall determine to make an improvement, the cost of

which, or any part thereof, it is proposed to assess against the property abutting on, or drained, served, or otherwise specially benefited or increased in value by the said improvement, it shall adopt a resolution to that effect, describing the property to be drained, served, or benefited by such improvement and define the same by naming the streets, avenues, alleys, or other lines by which the same is bounded, or shall describe the frontage of the property abutting on, or drained, served, or benefited by such improvement. The said resolution shall also describe the nature and extent of the work, and the general character of the materials to be used, and shall direct that full details, drawings, plans, specifications, and surveys of the said work and estimates be prepared by a registered engineer, or the board may in such resolution adopt plans for such work already prepared. Such resolution may set out and describe certain alternative types of materials and the board may require advertisements for proposals on the various types enumerated and the final selection by the board of the type or types of the said materials from among the alternatives, so enumerated, shall, in that event, be postponed until the bids shall have been received.

Section 5. Drawings, plans, specifications filed to await objection or remonstrances thereto. Such details, when complans, specifications, surveys, and estimates shall, when completed, be placed on file not later than two weeks prior to the date of the meeting hereinafter provided for in the office of the board or some other place designated in such resolution, where property owners who may be affected by such improvement may see and examine the same, and the said resolution shall appoint a time when the board will meet, which shall be not less than two weeks after the date of the first publication of the said resolution, to hear any objections or remonstrances that may be made to the said improvement, the manner of making the same, or the character of the material or materials to be used.

Section 6. Publication of resolution. The said resolution must be published once a week for two consecutive weeks in some newspaper published in each county in which any part of the improvements will be constructed and having general circulation therein. A copy of the said resolution shall also be sent, by registered or certified mail, postage prepaid, to the persons last assessing for county taxation the property which may be assessed for the said improvement, at their last known addresses, the said notices to be so mailed not less than ten days before the meeting of the board provided for in the next succeeding section. The failure of any official charged with the duty of sending such notice, or the failure of any owners of property to receive such notice, if sent by regis-

tered or certified mail as hereinabove provided, shall not invalidate or in anywise affect any assessment made under the provisions of this act.

Section 7. Result and effect of hearing of objections or protests. At the said meeting, or at a place and time to which the same may be adjourned, all persons whose property may be affected by the proposed improvement may appear in person or by attorney, or by petition, and object or protest against the said improvement, the materials to be used, or the alternative types of materials or any of them from which selection is later to be made, if any, and the manner of making the same, and the board shall consider such objections and protests, and may confirm, amend, modify, or rescind the original resolution. But if objection to the proposed improvement be made by a majority in frontage of the property owners to be affected thereby, when the proposed improvement is to be assessed against the property fronting or abutting any street, avenue, or alley, or by a majority in area of the property owners when the proposed improvement is to be assessed against the property within a defined area, the improvement shall not take place, unless ordered by a unanimous vote of those elected to the board.

Section 8. How cost of proposed improvement paid. The board may pay out of the general funds of the authority, or any special fund that may be provided for the purpose, such portion of the cost of the proposed improvement as it may deem proper. The cost of any improvement shall include the expense of the preliminary and other surveys, the inspection and superintendence of the work, the preparation, publication, and mailing of the notices and resolutions required by this act, the cost of construction, the printing of bonds, the interest on money borrowed during construction or on bonds when bonds have been issued in anticipation of the collection of assessments, the preparation of proceedings authorizing the issuance of bonds under the provisions of this act and the rendition of the approving opinions with respect thereto, and any other expenses necessary for the completion of such improvement.

Section 9. Notice, advertisement and letting of contract for public work. If the board shall finally order the making of the proposed improvement, notice shall be given asking for bids for such work, which notice shall describe in a general way the character and approximate quantities of such work and the types of materials, including alternates, if any, to be employed, and shall be published once a week for two consecutive weeks in a newspaper published in each county in which any part of the improvements will be constructed and

having general circulation therein. The date for receiving bids as set out in the said notice shall be not earlier than two weeks after the date of first publication thereof. The board must let the contract to the lowest responsible bidder; provided that if the lowest responsible bidder has not bid a satisfactory price, the board may reject all bids and re-advertise for bids in the same manner as hereinabove provided. The board may, by order, impose further conditions upon bidders with regard to bonds and surety for the faithful completion of such work, according to contract, or for any other purpose mentioned in the specifications. Surety bond for the faithful completion of the said work shall be required, where same or any part thereof is let out by contract, in an amount not less than fifty per cent of the estimated total of each contract. The authority may elect to construct the improvement or furnish labor or material, or both, for the same without asking for bids for that part of the improvement; and in the event that the authority makes any such election, then the provisions of this section requiring the authority to ask for bids from contractors and to publish a notice with respect thereto shall not be applicable to any work of construction to be performed by the authority or to any labor and material, or either, to be furnished by the authority.

Section 10. Engineer supervises work. All work done or improvements made under the provisions of this act shall be done under the supervision of the engineer or other superintendent appointed for that purpose by the board; provided, that the engineer or other superintendent so appointed shall not be related by blood or by marriage to any contractor to whom work is awarded under the terms of the preceding section, or, if the said contractor is a corporation, to any stockholder thereof; the said engineer or other superintendent so appointed shall not be interested in or have any share in the proceeds of any construction contract, or any contract for the sale of materials to be employed in the said work, nor a stockholder in the company selling the said materials; nor shall the said engineer or other superintendent so appointed be employed, directly or indirectly, by any parties having an interest in the proceeds of any such construction or sales contract.

Section 11. Accepting or rejecting work under contract. In case of any controversy of dispute, the board shall be invested with sole and exclusive power to determine whether any improvement has been completed in accordance with the terms of the contract therefor, and to accept or reject such work on the part of the authority.

Section 12. Power to levy betterment taxes and assessments on abutting or benefited property for costs of improve-

ment. If any such improvement be finally ordered and constructed, the board shall have power, after the completion and acceptance thereof, to assess the cost of constructing the said improvement, or any part thereof, upon or against the property abutting on any street, avenue, alley, highway or other public place so served, or drained, or against the property drained, served, or benefited by such improvement, to the extent of the increased value of such property by reason of the special benefits derived from such improvement. An authority shall have the power to assess for the cost of improvements any lot or lots, parcel or parcels of land purchased by the State of Alabama at any sale for the nonpayment of taxes, and where any such assessment is made against such lot or lots, parcel or parcels of land, a subsequent redemption thereof by any person authorized to redeem or sale thereof by the state shall not operate to discharge, or in any manner affect the lien of such authority for such assessment, but any redemptioner or purchaser at any sale by the state of any lot or lots, parcel or parcels of land upon which an assessment has been levied, whether prior to or subsequent to a sale to the state for the nonpayment of taxes, shall take the same subject to such assessment.

Section 13. Mode of levying and collecting such taxes or assessments. The cost of any part of such improvement may be assessed in fair proportion against the frontage of the property drained by the said improvement, or against all the lots or parcels of land lying within the area drained, served or benefited, but the assessment shall not exceed the increased value of such property by reason of the special benefits derived from the improvement.

Section 14. Roll or list of owners, lots or parcels of property assessed against. When any improvement is completed, the chairman or other chief executive officer of the board shall cause to be prepared a roll or list showing the names of the property owners, and opposite each name a description of each lot or parcel of land proposed to be assessed for such improvement belonging to such owner or owners, and the amount proposed to be assessed against each lot or parcel of land.

Section 15. Assessment book for improvements prepared and kept. Such list shall be entered in a well bound book or loose leaf book firmly bound, prepare for that purpose, and shall contain appropriate columns in which payments may be credited, and the lien of the assessment satisfied by the proper officers of the authority. The said book shall be known as the "Assessment Book of Improvements," and shall be a public record, and no error or mistake in regard to the name of the owner shall be held to invalidate any assessment, and it shall

be sufficient if the name of the person in whose name such property was last assessed for taxes for state taxation is shown in the said book.

Section 16. Notice of publication as to assessment books. After the completion of the proper entries of each improvement, the said book shall be delivered to the secretary of the authority, who shall thereupon give notice by publication one time in some newspaper published in each county in which any part of the improvements have been constructed and of general circulation therein, that the said assessment roll or list has been delivered to him, and is open for inspection in the office of the person authorized to make collection of the said assessments, whose title and address shall be listed. The notice shall also state the general character of the improvement, the terminal points thereof, and the streets, avenues, alleys, or other highways or portions thereof along which the improvement has been constructed, and shall also describe the frontage of the property drained by the said improvement, or the territory or area drained, served, or benefited by the said improvement, by naming the streets, avenues, alleys, or other highways, or other lines by which said area is bounded.

Section 17. Effect of defects or errors in notices. If there be any defect in the said notice or proceedings, before or subsequent to the said notice, with respect to one or more interested persons, the same shall not affect such notice or proceedings except insofar as it may touch the interest or property of such person or persons, and shall not avail any other person concerned therein. In case of such defect, supplementary proceedings of the same general character as those hereinabove prescribe may be hand in order to supply such defect.

Section 18. Hearing of objections to assessments. At a time and place mentioned in the said published notice, not less than twenty days from the date of publication, the board shall meet to hear and determine any objections or defenses that may be filed to such assessments or the amount thereof.

Section 19. Filing of written objections or defenses to assessments. The owner or owners of any real estate or any interest therein, which it is proposed to assess for the cost, or any part thereof, of the said improvement, may appear at any time on or before the date named in the said notice, or at the said meeting, and file in writing with the secretary or in the office of the authority any objections or defenses to the proposed assessment against the said property, or to the amount thereof, and persons who do not file objections or protests in writing against such assessment shall be held to have consented to the same.

Section 20. Hearing of objections and protests against assessments. The board shall hear and pass upon all such objections to and protests against the proposed assessments, under such reasonable rules and regulations as it may adopt.

Section 21. Subpoena of witnesses for examination on hearing. The board, by the secretary or its executive officer, may issue subpoenas for witnesses to appear before the governing body or any committee thereof, and may administer oaths to any witness to be examined.

Section 22. Fixing amount of assessment constitutes lien; superiority of such lien. At such meeting or any adjournment thereof, the board shall proceed by resolution to fix the amount of the assessment against each lot or tract or land described and included in the said assessment roll, and all such assessments, from the date of such order or resolution, shall be and constitute a lien on the respective lots or parcels of land upon which they are levied superior to all other liens, except those of the state and county for taxes. The board shall have no power to reduce or abate an assessment made for an improvement after such assessment shall have been made final, unless an appeal shall have been taken from such assessment within the time prescribed by law, except as provided in the next succeeding section, but this provision shall not affect the power of the board to split an assessment between two or more parties as provided by law.

Section 23. Board may reduce or abate certain assessments. The board shall have the power to reduce or abate any assessment made for improvements in cases where such assessment has been levied or attempted to be levied against property owned by the State of Alabama or by a county or owned by any church, hospital or other charitable organization, or in any case where the chief executive officer of the board, after due inquiry, has determined that such assessment has been made erroneously or in excess of the benefits derived by such property, or is so great as to constitute an undue burden on such property, having in view the value thereof, whether or not such assessment shall have been made final and the time to appeal therefrom expired.

Section 24. Transfer and assignment of liens. An authority may transfer and assign such liens to the contractor or contractors who made the said improvement or improvements, or to any other person.

Section 25. Circuit court may enforce liens. In addition to the method hereinafter provided for the collection of such assessments, the circuit court may enforce the said liens, and

in all suits which may be brought to enforce the said liens, either by the authority or by its assigns, the complainant shall recover the amount of such assessment, with interest thereon, together with the cost of such proceedings.

Section 26. Assessment liens to continue until satisfied in full. The enforcement by the state, county, city or town of its lien for taxes on any lot upon which has been levied an assessment for any improvement shall not operate to discharge or in any manner affect the lien of the authority for the assessment, but any purchaser at any tax sale by the state, county, city or town of any lots or parcels of land upon which an assessment has been levied shall take them subject to such assessment. All liens for improvements shall continue until they are paid or extinguished, or until the expiration of twenty years from the date of default in payment of the assessment or from the date when there was a due recognition of the indebtedness after default, after which time the enforcement of the lien shall be barred and the indebtedness conclusively presumed to have been paid.

Section 27. Effect of several assessment liens on same property. The enforcement by an authority of its lien for an assessment levied for one improvement by the sale of property shall not operate to discharge or in any way affect the lien of any other assessment for a different improvement on the same property, but the purchaser at such sale shall take the property subject to the lien of all other assessments, and the right of the authority to enforce the same.

Section 28. Appeal from assessments. Any person aggrieved by the decision in making any assessment may, within twenty days thereafter, appeal to the circuit court, or any other court of like jurisdiction, upon executing a bond in double the amount of the probable cost of the appeal.

Section 29. Condition and effect of appeal bonds. The amount of such bond shall be fixed and the sureties thereon shall be approved by the chief executive officer of the board, and the said bond shall be conditioned to prosecute the said appeal to effect and pay the authority any judgment that the circuit court or other court may render, and all damages that any person may suffer by such appeal.

Section 30. Appeal as preferred case. The said appeal shall be docketed in the said court, and shall be a preferred case therein.

Section 31. Contents of transcript for appeal. Upon the filing and the approval of the appeal bond, the secretary of the authority, upon notice thereof, shall immediately send to

the clerk of the circuit court, or other court to which the appeal may be taken, a transcript of all the proceedings of the authority relating to such assessment, so far as the same concerns the property of the appellant. Such transcript shall contain a description of the property of such party or parties, which shall be described as accurately as possible according to the map of the county in common use, if there be such map, the name of the owner of owners of such property, and the amount of the assessment.

Section 32. Transcript as prima facie evidence. Upon hearing such appeal, the introduction of such transcript and papers shall be prima facie evidence of the correctness of such assessment, and that the said property and persons are justly indebted to the authority for the amount of the said assessment.

Section 33. Cause may be tried on the record; judgments rendered. The said cause may be tried on the record without other pleadings and the court shall hear all objections of the property owners to the said assessment and the amount thereof; and shall determine whether or not such assessment exceeds the increased value of such property by reason of the special benefits derived from the improvement, and shall render judgment accordingly. Such cause shall be tried by the judge without a jury, unless a jury trial is demanded at the time of filing appeal, in which event the cause shall be tried by a jury as provided in common law cases. In event the court or jury shall not sustain the assessment for the full amount, the costs of appeal and trial in circuit court shall be adjudged against the authority.

Section 34. Judgment rendered on appeal for amount of property chargeable. If on the hearing of such appeal, it shall appear that by reason of any technical irregularity or defect in the proceedings, the assessment has not been properly made against the lot or parcel of land sought to be charged, the court may, nevertheless, on application of the authority, upon satisfactory proof that expense has been incurred which is a proper charge against the lot or land in question, render judgment for the amount properly chargeable against the said lot or land; but in such case the court shall make such order for the payment of the costs as it may deem proper.

Section 35. Appeal to supreme court by property owner provided for; appeal bond in such cases. An appeal may be taken to the supreme court of Alabama by any person interested in the said property from the decree rendered by the said court within thirty days from the date of such judgment, upon giving bond for costs of appeal, or if supersedeas be desired,

upon giving further bond in such sum as the judge of the said court may prescribe, payable to the authority with sufficient sureties, to be approved by the clerk of the said court, conditioned to pay such judgment or perform such judgment as the supreme court may render in the premises, and all such costs and damages as the authority may have sustained if the judgment is affirmed.

Section 36. Appeal to supreme court heard on record. Such appeal shall be heard upon the record and bill of exceptions reserved by the party taking such appeal, setting out such of the evidence as may be necessary to a fair presentation of the case.

Section 37. Judgment on affirmance. In the event a supersedeas bond has been given and the said case is affirmed by the supreme court, it shall add to the judgment rendered by the lower court interest thereon and ten per cent damages for delay.

Section 38. Appeal by authority to supreme court. The authority may also appeal from any decree of the said circuit court, or other court, without giving bond; and all appeals taken pursuant to this act shall be preferred cases in the supreme court.

Section 39. Execution of judgment and sale. In the event the final judgment is rendered in favor of the authority, execution may be issued thereon against the principal and sureties on the appeal bond, unless the amount of the judgment and decree is paid within thirty days from the date of such judgment, and the court shall, by further order, decree that the property assessed be sold to satisfy such judgment. Nothing contained in this act shall operate to release or discharge the lien on such property, unless the assessment is fully paid.

Section 40. How and when payment of assessment made. The authority, in ordering any improvement the cost of which, or any part thereof, is to be assessed against any property in accordance with the provisions of this act, may provide that the same shall be paid in cash within thirty days after the final assessment, provided the cost of such improvement does not exceed twenty-five dollars ($25.00). If the total cost of the said improvement is greater than such sum, any property owner may, at his election, to be expressed by notifying the official of the authority charged with the duty of collecting such assessments in writing within thirty days after the assessment is made final, pay the said assessment in ten equal installments, which shall bear interest at not exceeding eight per cent per annum, payable annually; provided, however,

that if the assessment against any lot or parcel of land does not exceed twenty-five dollars, the said assessment must be paid in cash within thirty days after the assessment is made final as above provided. Any person may pay the whole assessment against any lot or parcel of land within thirty days from the time the assessment is made, and may at any installment period pay the assessment in full by paying the full amount of the installments, together with all accrued interest thereon. Should the property owner desire to pay off the deferred installments between the dates on which they are due, he shall pay interest on the same until the succeeding installment period. The first installment shall be payable within thirty days after the assessment is made final, and all assessments or installments thereof shall be payable at the office of the secretary or treasurer of the authority, as may be prescribed, and all assessments or installments thereof shall bear interest at not exceeding eight per cent per annum after the expiration of thirty days from the date on which the same is made final, which interest shall be due and payable at the time and place the assessment or installment is due and payable. In all cases where the property owner does not elect to pay in installments, or having elected to pay in installments, fails to pay the first installment in thirty days from the date of assessment, he shall be held to have waived the right to pay in installments, and the entire assessment shall at the expiration of the said thirty days become due and payable.

Section 41. Acceleration upon failure to pay as installment matures. If the property owner who has not elected to pay in installments fails to pay his assessment within thirty days, or having elected to pay in installments, fails to pay the first installment in thirty days from the date of the assessment, or makes default in the payment of any annual installment or the interest thereon, the whole of such assessment shall immediately become due and payable, and the officer designated by the authority to collect such assessments shall proceed to sell the property against which the assessment is made to the highest bidder for cash; but he shall first give notice by publication once a week for three consecutive weeks in some newspaper published in the county in which the property is located and of general circulation therein, of the date and time of such sale, and the purpose for which the same is made, together with a description of the property to be sold. If the said officer shall fail to advertise and sell any property on which the said payments or installments are past due, any user of the improvement, or any holder of bonds of the series affected by the said failure, shall have the right to apply for a writ of mandamus requiring the said official to take such action to any court of competent

jurisdiction and the said court shall, on proof, issue and enforce such writ.

Section 42. Payment of assessment made at any time before sale. Any property owner, notwithstanding his default, may pay the assessment, with interest and all costs, if tendered before a sale of the property.

Section 43. Cost of sale charged against land. The cost of such advertisement and sale shall constitute a charge against the property to be sold and shall be retained out of the proceeds of the sale.

Section 44. Deed to purchaser at sale. The officer making such sale shall execute a deed to the purchaser, which shall convey all the right, title, and interest which the party against whose property the assessment was made, had or held in the said property at the date of making such assessment, or on the date of making such sale. Any surplus arising from the said sale shall be paid to the treasurer of the authority, to be kept as a separate fund by the treasurer for the owner upon the responsibility of his bond. The board may, by its agents, purchase real estate sold as provided under this act, and in the event of such purchase, the deed for the same shall be made to the authority.

Section 45. Redemption of property after sale. Any real property sold for the satisfaction of an assessment lien imposed thereon by the board may be redeemed by the former owner, or his assigns, or other person authorized to redeem property sold for taxes by the State of Alabama, within two years from the date of such sale, by paying to the purchaser at such sale or to any person deriving title under such purchaser, or to the treasurer of the authority, for such purchaser or person deriving title under such purchaser, the amount of the purchase price for which the property was sold at such sale plus an amount equal to interest on such purchase price from the date of such sale to the date of redemption at the rate of eight per centum per annum plus a fee of two dollars to cover the expense of a conveyance. If the redemption is made from the authority, the payment may be made upon such terms, including installment payments, as the board may approve.

Section 46. Extension of redemption period. The fixed two-year period of redemption allowed by the preceding section for the redemption of any property sold for the satisfaction of any such lien shall be extended to a date sixty days after the date of certificate of warning to redeem hereinafter provided for, but in no event for a longer period than six years from the date of such sale.

Section 47. Warning of redemption. At any time after an improvement assessment sale deed has been recorded in the office of the probate judge, and after expiration of the fixed two-year period of redemption allowed by section 45 of this act, any person may apply to such probate judge for entry in the record of deeds of a certificate of warning to redeem in substantially the following form: "I hereby certify that on or prior to the date of this certificate I mailed a compared copy of the deed recorded in Deed Book at Page, together with notice that the same is there recorded, and a warning to redeem, to each of the one or more persons other than the grantee in said deed, to whom the property therein described was last finally assessed for ad valorem taxation, at the address of each such person as shown by said ad valorem tax assessment records. This day of, 19, Probate Judge."

Section 48. Proceeding of warning. At the time of application for entry of such certificate of warning to redeem, the applicant shall deliver to the probate judge three correct copies of the said deed with a notation thereon of the deed book and page where recorded, and shall pay to the said probate judge a fee of one dollar. The said copies of the deed need not include any certificate of acknowledgment. It shall thereupon be the duty of the said probate judge to promptly compare the said copies with the record of such deed and, if such copies be found to be correct copies of such record, it shall be the further duty of such probate judge to ascertain from the ad valorem tax assessment records of his county the name of the person or persons other than the grantee in the said deed, to whom the property described in the said deed was last finally assessed for ad valorem taxation, together with the address of each such person as shown by the said tax assessment records, and thereupon to promptly mail to each such person at such address one of the foresaid compared copies of said deed, together with an attached warning to redeem in substantially the following form: "Take notice that there is recorded in my office in Deed Book at page a deed of which the attached is a correct copy. You are warned that unless you, or those claiming under you, take prompt steps to redeem from those claiming under the said deed, all rights of redemption may be lost. This day of, 19..... Probate Judge, ... County, Alabama." Promptly upon, or after, mailing such notice or notices and compared copy or copies of deed, it shall be the duty of the said probate judge to enter upon the record of deeds a certificate of warning substantially as prescribed by the preceding section hereof

and to sign such certificate and to date the same evenly with the date of entry. At the expiration of sixty days after the date of such certificate all rights to redeem from the sale shown by such deed shall cease and determine.

Section 49. Duties of probate judge. The duties herein imposed upon the probate judge may be performed in his name and stead by any person or persons thereunto authorized by him. The faithful performance of such duties may be compelled by mandamus, but the probate judge shall not be liable in damages for an error or mistake in the performance of such duties committed in good faith.

Section 50. Redemption in equity. Redemption may be effected after expiration of the fixed two-year period of redemption allowed or provided by section 45 of this act, and before the extended period of redemption has expired, in the same manner and at the same redemption price as is provided in the said section 45; provided that if the probate judge has made the certificate of warning to redeem as hereinabove provided, the said redepmtion price shall be increased by one dollar; and provided, further, that if the grantee in the aforesaid deed, or any person deriving any title or right under him, shall have placed any improvements upon the said property after expiration of the fixed two-year period of redemption allowed or provided by the said section 45, then redemption must be effected by bill in equity and the redemption price shall be increased by the value of such improvements, to be ascertained in such cause in equity.

Section 51. Effect of mistakes or errors in sale. No mistake in the publication provided for in section 41 of this act in the description of the property, or in the name of the owner, shall vitiate the assessment or the lien, and if, for any reason, the sale made by the authority be ineffectual to pass title, it shall operate as an assignment of the lien, and upon the request of the purchaser, supplementary proceedings of the same general character as herein required may be had to correct the errors in the said proceedings for his benefit, or the lien so assigned to him may be enforced in equity.

Section 52. Power to borrow money for improvements. For the purpose of providing funds to pay the cost of any improvement made under the provisions of this act, the cost of which, in whole or in part, is proposed to be assessed against the property drained, served and benefited by the improvements being provided, the authority may borrow money temporarily, executing its negotiable note therefor, which note may not run longer than a period of one year, or issue bonds. Such temporary note or issue of bonds may be made before the con-

tract is let for the improvements, or during the progress of the work, in installments as the work progresses, and the making of one loan or the issue of one series of bonds shall not exhaust the power of the authority to provide sufficient funds for the completion of the improvement. The authority may pledge as security for such loan, whether evidenced by notes or bonds, the proceeds of the assessments made or to be made against the property benefited by the improvement, and may transfer and assign for the benefit of the holder of the said note or bond the lien of the authority thereon, with power to enforce the same, either at law or in equity; but if notes or bonds shall be issued before the completion of the work, they shall not be issued in excess of the cost of the improvement as estimated at the time of the issue of the said notes or bonds. If money is borrowed and notes or bonds issued after the work is completed, such notes or bonds shall not exceed in the aggregate the total cost of the improvement. No irregularity or technical defect in the proceedings relating to the making of the improvement shall in any way affect the power of the authority to borrow money for the completion of the improvement.

Section 53. Issue of bonds after completion of work. If bonds have not been issued during the progress of the work as authorized by section 52 of this act, the authority may, after the completion of the work, sell and issue bonds not exceeding an amount sufficient to pay the then outstanding principal of and interest on any temporary loans made pursuant to the provisions of the said section 52 to finance all or part of the improvement, plus such portion of the cost of the improvement, computed in accordance with section 8 of this act, as has not been financed by any such temporary loan then outstanding and unpaid. In determining the amount of bonds so to be issued, the board shall take into consideration, to the extent practicable, the amount which at the time of the authorization of the sale of such bonds has been paid by the property owners toward the cost of the improvement.

Section 54. Provisions respecting notes and bonds. Any notes or bonds issued under this act may be secured by a pledge of the assessments made with respect to the improvement being financed. They may be made payable at such place or places within or without the state of Alabama as the board may designate. Any such bonds shall be payable in annual installments beginning one year and ending ten years from their date, the amout of no annual installment to exceed the amount of any other annual installment by more than $5,000. Such bonds may either be sold as hereinafter provided or may be delivered at not less than par plus accrued interest to the contractor in

payment or part payment for the work of the improvements. The bonds may be issued either in registered or coupon form and if in coupon form they may be made registrable either as to principal or as to both principal and interest. All bonds which are sold shall be sold by the board at not less than ninety-five per cent of their par value, together with accrued interest from the date of the bonds to the date upon which they are delivered and paid for; provided that funding and refunding bonds may be exchanged for outstanding obligations as hereinafter provided. None of the notes or bonds authorized in this act to be issued to finance improvements shall be subject to the provisions of Chapter 6 of Title 12 of the Code of Alabama of 1940, as heretofore or hereafter amended.

Section 55. Advertisement and sale or exchange. All bonds issued under this act, except bonds issued to the contractor and except funding and refunding bonds issued by exchange as hereinafter provided, shall be sold to the highest bidder at public sale; provided, that if at a duly advertised public sale in accordance with this section no legal bid acceptable to the governing body shall be received, then such bonds may be sold within thirty (30) days thereafter at private sale to the United States of America or to the State of Alabama. The public sale shall be either on sealed bids or at auction. The notice of a public sale shall state whether the sale is to be on sealed bids or at auction, and shall also briefly recite the amount of the bonds to be sold, the maturities thereof, the amount payable at each maturity, any redemption or prepayment privileges, the frequency with which interest will be payable, either the rate or rates of interest which the bonds are to bear or that the bidders are invited to name the rate or rates in their bids, and the time and place of sale or for submitting sealed bids. Such notice shall be published once in each of two consecutive weeks in a newspaper published in each county in which any part of the improvement is located, the first of such publications to be not less than ten (10) days before the last date for submitting bids if the sale is at auction. If there is no newspaper meeting the foregoing requirements the notice shall be posted in three (3) public places in the said county for at least a like period of ten (10) days. The board shall have the right to reject any or all bids. Nothing herein contained shall prevent the issuance of bonds under this act to the contractor in accordance with the provisions hereof. Funding or refunding bonds may be issued in exchange for a like or greater amount of the interest then due or accrued on and the principal of the indebtedness to be funded or refunded thereby, whether such indebtedness has then matured or shall thereafter mature, with the consent of the holders of such indebtedness to be funded or

refunded thereby, without the publication of notice or other advertisement of such exchange; provided, that if the principal amount of the bonds so proposed to be issued in exchange shall exceed an aggregate of $50,000, then no such exchange shall be effected unless the authority shall first have offered such funding or refunding bonds for sale to the highest bidder at public sale advertised in accordance with the provisions of this section and no legal bid acceptable to the board shall have been received therefor at such advertised public sale. In the event no such legal bid acceptable to the board shall have been received at such advertised public sale then such exchange may thereafter be effected without further notice or advertisement. In any such authorized exchange the authority may pay for services rendered in making or securing the making of the exchange, not more than 5% of the face value of the first $10,000 aggregate principal amount of the funding or refunding bonds so exchanged, plus 2½% of the face value of the funding or refunding bonds so exchanged in excess of $10,000 principal amount. Any amount herein authorized to be paid by the making of any exchange of bonds shall include the cost of preparing the bonds, all costs of legal work, and all other necessary expenses in connection with the making of the exchange.

Section 56. How highest bidder determined. In determining the highest bidder for bonds offered for public sale the lowest net interest cost to the authority, as determined by the board, shall govern. The determination of the board as to what constitutes such lowest net interest cost shall be final and conclusive.

Section 57. Application of proceeds of sale. The principal proceeds received in the sale of any bonds issued under the authority of this act shall be used for the purposes for which the bonds are issued; provided, however, that if for any reason any part of such proceeds shall not be necessary for such purposes, then such unexpended part of such proceeds shall be applied to the payment of the principal of or interest on the said bonds. All accrued interest and premium received in any such sale shall be applied to the payment of interest or principal on the bonds sold.

Section 58. Bonds incontestable thirty days from delivery. Any bonds reciting that they are issued pursuant to this act shall in any action or proceeding involving their validity be conclusively deemed to be fully authorized by this act and to have been issued, sold, executed and delivered in conformity herewith, and with all other provisions of statutes applicable thereto and shall be incontestable, anything herein or in other statutes

to the contrary notwithstanding, unless such action or proceeding is begun before or within thirty days after the day upon which the bonds are delivered and paid for.

Section 59. Bonds shall be exempt from taxes. All notes, interest thereon, bonds and interest coupons attached to the same, issued under the authority of this act, shall be exempt from state, county and municipal taxation.

Section 60. Irregularity shall not affect validity; property of bonds. No irregularity in the proceedings to authorize the issue of bonds under this act, nor the omission or neglect of any officer charged with the execution of any duties imposed by this act shall affect the validity of any bonds issued under this act. Such bonds shall have all the properties and protection of commercial paper.

Section 61. Lost, mutilated, or destroyed bonds. Whenever it shall be made to appear to the board by clear and satisfactory evidence that any bond issued hereunder has been lost, destroyed, or mutilated, so that the same is not held by any person as his property, then the authority shall issue a duplicate of such lost, destroyed, or mutilated bond, in like amount, bearing like interest and executed and marked in like manner as the bond so proved to have been lost, destroyed, or mutilated. But the owner of such lost, destroyed, or mutilated bond shall first execute a penal bond in double the amount of the bond sought to be replaced, together with the amount of interest which has or might thereafter accrue thereon, with some surety company qualified to do business in the State of Alabama, to be approved by the board and payable to the authority, with condition to idemnify and save harmless such authority from any claim whatsoever because of such lost, destroyed, or mutilated bond. Such penal bond shall be filed and kept with the secretary of the authority, and shall be admissible in evidence in any court.

Section 62. Authority may settle, adjust or refund bonds. The board shall have the power to settle, adjust and refund any bonds issued hereunder, whether such bonds have already become due and payable or are about to become due and payable or are callable according to their terms, and the board deems it to the best interest of the authority to call said bonds and raise funds for the payment thereof by the sale of bonds as herein authorized; provided, however, that all sums derived from the payment of assessments and being in the hands of the authority at the time of such refunding shall be first applied to the payment of the outstanding bonds, and refunding bonds shall be issued only in such amount as shall be necessary to raise the difference

between the amount required for the payment of the outstanding bonds and the amount held for the payment thereof.

Section 63. Refunding bonds may be delivered to special fund. Where the authority has used any part of any other special fund for the purpose of taking up at maturity bonds or coupons representing a portion of the principal of bonds which had heretofore been issued for improvements and which had fallen due, the provisions of the preceding section shall be construed to permit either the issuance of refunding bonds to the authority's treasurer as custodian of such fund, or the sale of such bonds for the purpose of replacing in such fund all moneys of such fund so used.

Section 64. Separate issues may be consolidated. In exercising the powers conferred by the two preceding sections it shall not be necessary to make a separate issue of refunding bonds with respect to each outstanding issue, but two or more of such outstanding issues or portions thereof may be grouped together in a single refunding issue, in which event all assessments thereafter collected with respect to any of the improvements financed by the separate issues, or the proper proportionate part thereof, shall be applicable to the payment of such refunding bonds.

Section 65. Sinking fund. A separate sinking fund account shall be provided and kept for each refunding bond issue authorized under the provisions of the three preceding sections to which shall be credited all collections made on assessments levied with respect to the improvements financed by the original issues of bonds or the proper proportionate part thereof, and such sinking fund shall be used only for the purpose of paying interest and principal on such bonds in that particular group or series as they mature.

Section 66. Assessments under different resolutions may be grouped for the issue of bonds. Any authority desiring to issue bonds under this act shall have power to group improvements under two or more resolutions and make one issue of bonds under this act based on the combined estimated costs or combined assessments in respect of such improvements.

Section 67. Deposit of funds arising from assessments; how drawn out. The official charged with the duty of collecting assessments shall keep all sinking funds in some bank or banks paying interest on time deposits to be designated by the board, and shall provide and keep a separate sinking fund account for each bond issued. If the said officer shall fail to provide and keep the said separate sinking fund account for each such bond issue in the said bank or banks or shall divert any of

such funds to other uses or shall fail to pay any bond or bonds or the interest thereon properly payable from the said funds, when available, any user of the improvements financed thereby, or any holder of bonds of the series affected by such diversion or failure shall have the right to apply for a writ of mandamus, requiring the said official to take such action, to any court of competent jurisdiction and the said court shall on proof issue and enforce the said writ.

Section 68. Officer collecting assessments liable on official bonds for funds. The official charged with the duty of collecting assessments shall be required to give bond, including the amount of any official bond which may have been required by him by law, equal to not less than five per cent of the total amount in the said sinking funds provided for in the next preceding section and the said bond shall be increased and may be diminished from time to time in order to comply with this provision. The cost of the said increased bond shall be paid by the authority. The said official shall be liable on his official bond to any holder of the bonds authorized to be issued under this act for any loss or injury to such holder caused by the diversion by the said officer of any fund or part thereof to the payment of any indebtedness of the authority other than the bonds and interest coupons issued hereunder and indebtedness herein authorized to be paid out of the said fund or caused by the use or misappropriation by the said officer of any part of the funds out of which the said bonds and coupons are to be paid for any other purpose than as provided for in this act, or for the benefit of the authority or others. All members of the board who shall, by their vote, or in any other manner, cause, aid, or encourage any such diversion, use or misappropriation of the funds out of which the bond holders are entitled to be paid, for any other purposes than those authorized and required in this act, whereby loss or injury to the bond holders or any of them is caused, shall be jointly and severally liable to such bond holders injured, to the extent of such loss or injury. Any failure by any of the above officials to keep all funds collected from assessments in sinking funds in the bank or banks as provided in this act or to retire bonds when due out of such funds when available shall be construed as a diversion or misappropriation and any bond holder of a bond in the series affected, may at any time enter suit against the said official or officials in any court of competent jurisdiction for the satisfaction of such loss and injury.

Section 69. Redemption of bonds. At an time when the amount of any particular fund shall, with its accumulations, equal the amount of any one of the outstanding bonds and accrued interest entitled to payment out of such fund, the board

shall have authority to redeem any and all such bonds that may be presented for redemption at such times thereafter as the holders thereof may desire to present the same for redemption.

Section 70. Refunding to parties proportionate amount of excess. In the event the amounts collected from the assessments under any improvement resolution shall exceed the total cost and expense of the improvement, there shall be refunded to each of the parties affected by the said assessments a proportionate amount of the excess, upon demand made therefor by the said parties within twelve months after maturity or payment of the bonds authorized with respect to that improvement. If such claims be not presented within twelve months from the date of the maturity or payment of the said bonds, they shall be forever barred, and such amount shall be converted to the general fund of the authority.

Section 71. Lands purchased or condemned by authority for public improvement. Whenever in the judgment of the board it may be necessary or expedient for the carrying out and full exercise of the powers hereby granted, an authority may acquire by purchase or condemnation the necessary lands, or rights or easements, or interests therein, thereunder, and thereover, and may proceed to condemn the same in the manner provided in Title 12 or by the general laws of this state governing the taking of lands or the acquiring of an interest therein, for the uses for which private property may be taken; in which case such proceedings shall be governed in every respect by the general laws of the state pertaining thereto.

Section 72. Subsequent annexation or incorporation. The subsequent annexation to a municipality or incorporation as a new municipality of any area with respect to which assessments have been made for an improvement pursuant to this act shall not change, alter, or invalidate in any manner any of the proceedings taken, assessments made, liens established, or notes or bonds issued, hereunder.

Section 73. Severability. If any clause, sentence, section or provision of this act, or the application thereof to any person, body, situation, or circumstance is held invalid or inoperative by a court of competent jurisdiction, such holding shall not affect any other clause, sentence, section, or provision of this act or the application thereof to any other person, body, situation, or circumstance not affected by such holding.

Section 74. Repealing clause. All laws and parts of laws inconsistent or in conflict with this act are hereby expressly repealed.

Section 75. Effective date. This act shall take effect immediately upon its passage and approval by the governor or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:00 P.M.

Act No. 827 H. 1268—Crawford, Connell

Relating to Henry County; levying in such county additional privilege license and excise taxes, paralleling the state sales and use taxes provided for in Act No. 100, H. 94, Second Special Session 1959 (Acts 1959, p. 298) as amended, and the Code of Alabama, 1940, Title 51, Chapter 20, Article 11, as amended; providing for the collection of such taxes by the State Department of Revenue, and for the distribution and use of the proceeds thereof; providing for the enforcement of the act; providing penalties for violations of the act.

Be It Enacted by the Legislature of Alabama:

Section 1. All words, terms, and phrases that are defined in Act No. 100, H. 94, Second Special Session 1959 (Acts 1959, p. 298), as amended, the state sales tax act, and in Code of Alabama 1940, Title 51, Chapter 20, Article 11, as amended, shall, where used in this act, have the meanings respectively ascribed to them in said Act No. 100 and Code of Alabama 1940, Title 51, Chapter 20, Article 11, as heretofore amended, except where the context herein clearly indicates a different meaning. In addition, the following words, terms and phrases where used in this act shall have the following respective meaning except where the context clearly indicates a different meaning:

"State sales tax statutes" means Act No. 100, H. 94, Second Special Session 1959 (Acts 1959, p. 298), which levies a retail sales tax for state purposes, and includes all statutes, including amendments to said Act No. 100, heretofore enacted which expressly set forth any exemptions from the computation of the tax levied in said Act No. 100 and all other statutes heretofore enacted which expressly apply to, or purport to affect, the administration of said Act and the incidence and collection of the tax imposed therein;

"States sales tax" means the tax imposed by the state sales tax statutes;

"State use tax statutes" means the Code of Alabama 1940, Title 51, Chapter 20, Article 11, as heretofore amended, including all statutes heretofore enacted which expressly set forth any exemptions from the computation of the tax levied

in said Article 11 and all other statutes heretofore enacted which expressly apply to, or purport to affect the administration of the said article and the incidence and collection of the tax imposed therein;

"State use tax" means the tax imposed by the state use tax statutes;

"Registered seller" means the person registered with the State Department of Revenue pursuant to the state use tax statutes or licensed under the state sales tax statutes;

"Month" means the calendar month;

"Quarterly period" means the period of three months ending on the last day of each March, June, September, and December;

"Fiscal year" means the period commencing on October 1 of each calendar year and ending on September 30 of the next succeeding calendar year.

Section 2. There are hereby levied and imposed in Henry County, in addition to all other taxes of every kind now imposed by law, county privilege or license taxes to be determined by the application of rates against gross sales or gross receipts as the case may be, as follows:

1. Upon every person, firm, or corporation (not including the State of Alabama or the Alabama Alcoholic Beverage Control Board or ABC stores) engaged or continuing within Henry County in the business of selling at retail any tangible personal property whatsoever, including merchandise and commodities of every kind and character, (not including, however, bonds or other evidence of debt or stocks), and amount equal to one percent of the gross proceeds of sales of the business. Any person engaging or continuing in business as a retailer and wholesale or jobber shall pay the tax required on the gross proceeds of retail sales of such businesses at the rates specified when his books are kept, so as to show separately the gross proceeds of sales of each business, and when his books are not so kept he shall pay the tax as retailer, on the gross sales of the business. Provided that where all the sales of a company are single sales of peanut products, milk products, coffee, and confections sold in dispensing machines located in industrial plants or on private property for employees where such machines dispense exclusively articles not to exceed ten cents (10¢) per sale, and the person operating such machines shall be engaged in the business of selling exclusively articles not to exceed ten cents (10¢) per sale and shall file with the State Department of Revenue a sworn statement to that effect and shall keep and maintain records satisfactory to

the State Department of Revenue, the gross receipts tax herein provided for shall not be levied.

2. Upon every person, firm, or corporation engaged or continuing within Henry County in the business of conducting or operating places of amusement or entertainment, billiard and pool rooms, bowling alleys, amusement devices, musical devices, theaters, opera houses, moving picture shows, vaudevilles, amusement parks, athletic contests, including wrestling matches, prize fights, boxing and wrestling exhibitions, football and baseball games (including athletic contests conducted by or under the auspices of any educational institution, or any athletic association thereof, or other association whether such institution or association be denominational, a state, county, or city school, or other institution, association or school), skating rinks, race tracks, golf courses, or any other place at which any exhibition, display, amusement, or entertainment is offered to the public or place or places where an admission fee is charged, including public bathing places, public dance halls of every kind and description, conducted or carried on within Henry County, an amount equal to one percent of the gross receipts of any such business.

3. Upon very person, firm, or corporation engaged or continuing within Henry County in the business of selling at retail any automotive vehicle or truck trailer, semi-trailer, farm tractors and other farm machinery, or house trailer, an amount equal to one-fourth of one per cent of the gross proceeds of sale of said automotive vehicle or truck trailer, semi-trailer, farm tractors and other farm machinery, or house trailer provided, that where any such automotive vehicle or truck trailer, semi-trailer, farm tractors and other farm machinery, or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax levied herein shall be paid on the net difference, that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade.

4. Upon every person, firm or corporation engaged or continuing within Henry County in the business of selling at retail machines used in farming, mining, quarrying, compounding, processing and manufacturing of personal property an amount equal to one-fourth of one percent of the gross proceeds of the sale of such machines; provided, that the term "machines," as herein used, shall include machinery which is used, for farming, mining, quarrying, compounding, processing or manufacturing tangible personal property, and the parts of such machines, attachments and replacements therefor, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines, and are customarily so used.

5. There are exempted, however, from the provisions of this section and from the computation of the amount of the tax imposed in this section the gross receipts of any business and the gross proceeds of all sales which are presently exempted under the state sales tax statutes from the computation of the amount of the state sales tax.

6. An excise tax on the storage, use, or other consumption in Henry County of tangible personal property purchased at retail, on or after the first day of the month next succeeding the month during which this act shall become a law, for storage, use or other consumption in Henry County, at the rate of one percent of the sale price of such property, regardless of whether the retailer is or is not engaged in business in Henry County or in this State, except as provided in subsections 7 and 8 of this section.

7. An excise tax on the storage, use or other consumption in Henry County of any automotive vehicle, or truck trailer, semi-trailer, or farm tractor and other farm machinery, or house trailer purchased at retail on or after the first day of the month next succeeding the month during which this act becomes a law for storage, use or other consumption in this State at the rate of one-fourth of one percent of the sales price of such automotive vehicle or truck trailer, semi-trailer, or farm tractor and other farm machinery, or house trailer. Where any used automotive vehicle or truck trailer, semi-trailer, farm tractor and other farm machinery or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax levied herein shall be paid on the net difference, that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade.

8. An excise tax is hereby imposed on the storage, use, or other consumption in Henry County of any machines used in farming, mining, quarrying, compounding, processing, and manufacturing of tangible personal property, purchased at retail on or after the effective date of this act, at the rate of one-fourth of one percent of the sales price of any such machine; provided, that the term "machine", as herein used, shall include machinery which is used for farming, mining, quarrying, compounding, processing, or manufacturing tangible personal property, and the parts of such machines, attachments and replacements therefor, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and as customarily so used.

9. There are exempted, however, from the provisions of this section and the tax imposed in this section the storage,

use, or other consumption of property the storage, use or other consumption of which is presently exempted under the state use tax statutes from the state use tax. Subject to these exemptions, every person storing or using or otherwise consuming in Henry County tangible personal property purchased at retail shall be liable for the tax imposed by this section, and the liability shall not be extinguished until the tax has been paid by such person as herein provided; provided, however, that a receipt from a registered seller given pursuant to Section 4 of this act to the purchaser of any property to be used, stored, or consumed in Henry County shall be sufficient to relieve the purchaser from further liability for a tax to which such receipt may refer.

Section 3. The taxes levied in Section 2, subsections 1, 2, 3, and 4 of this act shall be due and payable in monthly installments on or before the twentieth day of the month next succeeding the month in which the tax accrues; and the taxes levied in Section 2, subsections 7 and 8 of this act shall be due and payable quarterly on or before the twentieth day of the month next succeeding each quarterly period during which the storage, use, or other consumption of the tangible personal property became taxable hereunder, each such quarterly period to end on the last days of each of the months of March, June, September and December. All taxes levied in this act shall be paid to and collected by the State Department of Revenue at the same time and along with the collection of the state sales tax and the state use tax. On or prior to the due dates of the taxes herein levied each person subject to such taxes shall file with the State Department of Revenue a report in such form as may be prescribed by the department, setting forth, with respect to all sales and business that are provided in section 2, subsections 1, 2, 3 and 4 hereof to be used a measurement of the tax levied in said Section 2, subsections 1, 2, 3 and 4, a correct statement of the gross proceeds of all such sales and the gross receipts of all such business and setting forth, with respect to the tax levied in Section 2, subsections 6, 7, and 8 hereof, the total sales price of all property, the use, storage, or other consumption of which become subject to the tax imposed by said Section 2, subsections 6, 7, and 8, during the preceding quarterly period; however, that said report shall include also such other items of information pertinent to the said taxes in the amount thereof as the State Department of Revenue may require. Any person subject to the taxes levied in Section 2, subsections 1, 2, 3 and 4, hereof, may defer reporting credit sales until after their collection, and in the event he so defers reporting them, he shall thereafter include in each monthly report all credit collections made during the month preceding, and shall pay the

taxes due thereon at the time of filing such report. All reports or returns filed with the State Department of Revenue under this section shall be available for inspection by the chairman of the Henry County governing body, or his designated agent at reasonable times during business hours.

Section 4. Every registered seller making sales of tangible personal property for storage, use, or other consumption in Henry County (which storage, use or other consumption is not herein exempted from the tax imposed in Section 2, subsections 6, 7, and 8 hereof), shall at the time of making such sale or if the storage, use, or other consumption of such tangible personal property in Henry County is not then taxable under this act, at the time such storage, use or other consumption becomes taxable hereunder, collect the tax imposed by Section 2, subsections 1, 2, 3, and 4 of this act from the purchaser, and shall give to the purchaser a receipt therefor in the manner and form prescribed by the State Department of Revenue. On the twentieth day of the month following the close of each quarterly period provided for in Section 3 hereof, each registered seller shall file with the State Department of Revenue a return for the preceding quarterly period in such form as may be prescribed by the department showing the total sales of the tangible personal property sold by such registered seller, the storage, use, or other consumption of which became subject to the tax imposed by Section 2, subsections 6, 7 and 8, of this act during the then preceding quarterly period and each return shall be accompanied by a remittance of the amount of the tax herein required to be collected by such registered seller during the period followed by the return provided that any registered seller may defer collecting the tax with respect to credit sales until collection of the proceeds of such sales and may defer reporting credit sales until after their collection, but shall thereafter collect the said taxes along with collection of said credit sales and shall include in each quarterly report all credit collections made during the preceding quarterly period and shall remit the taxes with respect thereto at the time of filing such report or return. Any person who has paid to a registered seller the tax with respect to the use, storage, or other consumption of tangible personal property in Henry County need not file a report or make any further payment of the said tax, but each person who purchases tangible personal property the storage, use or other consumption of which is subject to the tax imposed by Section 2, subsections 6, 7, and 8 of this act and who has not paid the tax due with respect thereto to a registered seller, shall report and pay the tax as required by Section 3.

Section 5. Each person engaging or continuing within Henry County in a business subject to the taxes in Section 2,

subsections 1, 2, 3, and 4 of this act shall add to the sales price or admission fee and collect from the purchaser or the person paying the admission fee the amount due by the taxpayer on account of said taxes levied in said Section 2, subsections 1, 2, 3, and 4; and every registered seller shall likewise add to the sales price and collect from the purchaser the amount of any tax which such registered seller is required by Section 4 hereof to collect. It shall be unlawful for any person subject to the tax levied in said Section 2, subsections 1, 2, 3, and 4 to fail or refuse to add to the sales price or admission fee and to collect from the purchaser or person paying the admission fee the amount herein required to be so added to the sales or admission price and collected from the purchaser, and it shall likewise be unlawful for any person subject to said tax to refund or offer to refund all or any part of the amount so collected or to absorb or advertise directly or indirectly the absorption or refund of said tax or any portion thereof. It shall likewise be unlawful for any registered seller to fail or refuse to add to the sales price and to collect from the purchaser the amount of the tax imposed by Section 2, subsections 6, 7 and 8, of this act or to refund or offer to refund or absorb, or to advertise directly or indirectly the absorption of, said tax or any portion thereof.

Section 6. The taxes imposed by this act shall constitute a debt due the Henry County governing body and may be collected by civil suit, in addition to all other methods provided by law and in this act. The said taxes, together with interest and penalties with respect thereto, shall constitute and be secured by a lien upon the property of any person from whom said taxes are due or who is required to collect said taxes. All of the provisions of the revenue laws of this State which apply to the enforcement of liens for license taxes due this State shall apply fully to the collection of the taxes herein levied, and the State Department of Revenue, for the use and benefit of the Henry County governing body shall collect such taxes and enforce this act and shall have and exercise for such collect and enforcement all rights and remedies that this State or the department has for collection of the state sales tax and the state use tax. The State Department of Revenue shall have full authority to employ such special counsel as it deems necessary from time to time to enforce collection of the taxes authorized to be levied by this act, and to otherwise enforce the provisions of this act, including any litigation involving this act; and the department shall pay such special counsel such fees as it deems necessary and proper from the proceeds of the taxes collected by it for the Henry County governing body.

Section 7. All provisions of the state sales tax statutes

with respect to payment, assessment, and collection of the state sales tax, including discounts to licensees, making of monthly reports and keeping and preserving records with respect thereto, interest after due date of tax, penalties for failure to pay tax, make reports or otherwise comply with the state sales tax statutes, the promulgation of rules and regulations with respect to the state sales tax, and the administration and enforcement of the state sales tax statutes, which are not inconsistent with the provisions of this act when applied to the tax levied in Section 2, subsections 1, 2, 3, and 4 hereof, shall apply to the tax levied in the said Section 2, subsections 1, 2, 3, and 4, and all provisions of the state use tax statutes with respect to payment, assessment and collection of the state use tax, making quarterly reports and keeping and preserving records with respect thereto, interest after due date of tax penalties for failure to pay tax, make reports or otherwise comply with the state use tax statutes, the promulgation of rules and regulations with respect to the state use tax and the administration and enforcement of the state use tax statutes, which are not inconsistent with the provisions of this act when applied to the tax levied in Section 2, subsections 6, 7, and 8, hereof, shall apply to the tax levied in the said Section 2, subsections 6, 7, and 8. The State Commission of Revenue and the State Department of Revenue shall have and exercise all of the same powers, duties and obligations with respect to the taxes levied in Section 2, hereof that are imposed on the commissioner and the department, respectively, by the state sales tax statutes and the state use tax statutes. All provisions of the state sales tax statutes and state use tax statutes that are made applicable in this act are hereby incorporated herein by reference and made a part hereof as if fully set forth herein.

Section 8. The State Department of Revenue shall charge the Henry County governing body for collecting said special taxes herein levied by this act, the cost of making such collections which charge shall not exceed five percent of the amount collected. Such charge may be deducted once each month from the special sales and use taxes collected before certifying the amount of special taxes due the Henry County governing body. The Commissioner of Revenue shall pay into the state treasury all taxes collected under this act, as such taxes are received by the Department of Revenue; and on or before the tenth day of each successive month (commencing with the month following the month in which the department makes the first collection hereunder), the commission shall certify to the state comptroller the amount of taxes collected under the provisions of this act and paid by him into the state treasury for the benefit of the Henry County governing body during

the month immediately preceding the making of such certificate. Provided, however, that before certifying the amount of the taxes paid into the state treasury for the benefit of the Henry County governing body during each month, the commissioner may deduct from the taxes collected in said month the charges due the department for the collection of the taxes for the county. It shall be the duty of the comptroller to issue his warrant each month payable to the Henry County governing body in an amount equal to the amount so certified by the Commissioner of Revenue as having been collected for the use of the Henry County governing body and paid into the state treasury.

Section 9. One-half of the proceeds from the taxes herein levied may be used for the purposes of the General Fund of Henry County, Alabama, and may be expended for such purposes as in the judgment of the governing body are meet and proper, and one-half of the proceeds from the taxes herein levied may be used for public school purposes, and shall be disbursed to the Henry County Board of Education and may be expended for such purposes as in the judgment and opinion of the Henry County Board of Education are meet and proper.

Section 10. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 11. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains, provided, however, that if the provisions for holding the election specified herein are declared invalid or unconstitutional then the entire act shall be invalid or unconstitutional and no tax shall be levied under the provisions of this Act.

Section 12. This Act shall be inoperative and void unless it shall have been approved by a majority of the qualified electors of Henry County who vote thereon at a referendum election held for such purpose. The election shall be held and conducted as nearly as may be in the same way as elections on amendments to the Constitution, and shall be held on the same day as the next general, special, or primary election held in the county after final passage of this Act. Notice of the election shall be given by the judge of probate of Henry County, which notice shall be published once a week for three successive weeks before the day of the election. On the ballots to be used at the election, the proposition to be voted on shall be stated substantially as follows:

"Do you favor local Act No., H. B. 1268, approved, 1973, levying a county sales tax and a county use tax for the purposes of the General Fund and public

schools? Yes () No ()." If a majority of the votes cast at the election are affirmative votes, this Act shall be in full force and effect immediately thereafter. If a majority of the votes cast are in the negative, the Act shall have no further effect. The judge of probate of Henry County shall certify the results of the election to the Secretary of State and to the State Commissioner of Revenue.

Approved September 5, 1973.

Time: 5:00 P.M.

Act No. 828 H. 1275—Hardin, Bassett

AN ACT

Relating to all counties having a population of not less than 22,000 nor more than 22,500, according to the most recent federal decennial census; providing an additional expense allowance for the county solicitor.

Be It Enacted by the Legislature of Alabama:

Section 1. The county commission or other like governing body of all counties having a population of not less than 22,000 nor more than 22,500, according to the most recent federal decennial census, is hereby authorized and directed to provide the county solicitor of any such county with an additional expense allowance of two hundred dollars ($200) per month to cover the expenses incurred in maintaining his office and in the performance of his duties. Such expense allowance shall be in addition to any and all other compensation and allowances provided by law and shall be paid from the general fund of the county on requisitions signed by the county solicitor.

Section 2. All laws or parts of laws which conflict with this act are repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:00 P.M.

Act No. 829 H. 1454—McDonald

AN ACT

To authorize savings and loan associations to open, establish, operate and maintain branch offices in counties having a population of not

less than fifty-three (53,000) nor more than fifty-five (55,000) inhabitants according to the last or any subsequent Federal decennial census.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall apply only in counties having a population of not less than 53,000 nor more than 55,000 inhabitants according to the last or any subsequent Federal decennial census.

Section 2. The Directors or other governing authority of any savings and loan association in Alabama, whether such association be chartered under an Act of Congress or State Law, are hereby authorized and empowered to open, establish, operate and maintain a branch office or offices anywhere in any County to which this Act applies, and may engage in such business at such branch office or offices as said association is permitted to do by its charter or bylaws.

Section 3. All laws or parts of laws which conflict with this Act are repealed.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor or its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:15 P.M.

Act No. 830 H. 1678—Lyons

AN ACT

To authorize and direct the Commissioner of Conservation and Natural Resources for One Dollar ($1.00) to execute and deliver on behalf of the State of Alabama a proper conveyance of certain real property to the Board of Trustees of the University of South Alabama and certain other real property to the Mobile County Board of School Commissioners; and to provide for the relinquishment of certain rights in a certain part of such property by the Mobile County Board of School Commissioners.

Be It Enacted by the Legislature of Alabama:

Section 1. Pursuant to the provisions of Act Number 989, passed in the Regular Session of the 1969 Legislature of Alabama and Amendment Number 289 to the Constitution of Alabama, 1901, the Commissioner of Conservation and Natural Resources with the approval of the Governor is hereby authorized and directed to convey and deliver on behalf of the State of Alabama for One Dollar ($1.00) and in consideration of the grantee being a state institution, the title in fee simple

to the following described real property to the Board of Trustees of the University of South Alabama to wit:

Section 16, Township 4, South, Range 2 West, St. Stephens Meridian in Mobile County;

and to the Mobile County Board of School Commissioners, the property authorized in Act Number 989 to be conveyed to such Commissioners with the description of the 240 acres in Section 30, Township 6, South, Range 2 West, being corrected to read "The Northeast Quarter *and* the North half of the Northwest Quarter of Section 30, Township 6, South, Range 2 West." Upon the making of the conveyance of above stated property by the State of Alabama to the Board of Trustees of the University of South Alabama, the Mobile County Board of School Commissioners are directed to release and relinquish to such trustees all rights to the control, direction and management of said Section 16, Township 4, South, Range 2 West.

Section 2. All laws or parts of laws which conflict with this Act are hereby expressly repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming law.

Approved September 5, 1973.

Time: 5:15 P.M.

Act No. 831 H. 1682—Harris, Barron, Hobbie, Jones (F)

AN ACT

To transfer the historic property known as the Powder Magazine owned by the Finance Department of the State of Alabama to the City of Montgomery.

Be It Enacted by the Legislature of Alabama:

Section 1. The historic property known as the Powder Magazine located in the City of Montgomery, Montgomery County, owned by the Finance Department of the State of Alabama is hereby transferred to the City of Montgomery, which shall have full authority to take whatever steps it deems necessary to develop, restore, renovate, preserve, maintain, operate, exhibit, and publicize it in accordance with the powers and responsibilities of the said City. The Director of Finance shall cause an appropriate deed or conveyance to be executed in accordance with the provision of this act.

Section 2. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:15 P.M.

Act No. 832 H. 1693—Slate, Cauthen

AN ACT

Relating to counties having populations of not less than 75,000 nor more than 90,000; providing for payment of expense allowance and salary for the judges of the county courts of such counties.

Be It Enacted by the Legislature of Alabama:

Section 1. In addition to all other compensation and allowances provided by law, the judges of the county courts in counties having populations of not less than 75,000 nor more than 90,000, according to the 1970 or any subsequent federal decennial census, shall receive an allowance in the amount of $2,000.00 per annum, for the purpose of defraying the expenses incurred by such judges in the performance of their official duties. The allowance provided for herein shall be paid in equal monthly installments out of the county treasury. The allowance created shall terminate on the first Tuesday in January of the year 1975. On and after the first Tuesday in January of the year 1975 the annual salary of the judge of the county court of any such counties shall be Two Thousand Dollars ($2,000.00) less than the annual base salary of circuit judges in this state, as set by statute, and shall be payable out of the general fund of the county in equal monthly installments.

Section 2. All laws or parts of laws, general, local, or special, which conflict with this Act are repealed.

Section 3. This Act shall become effective on the first day of the month next following the date of its enactment.

Approved September 5, 1973.

Time: 5:15 P.M.

Act No. 833 H. 1791—Grey (D)

AN ACT

Relating to the boards of education in counties having populations of not less than 14,000 nor more than 15,000, according to the most recent federal decennial census, providing an expense allowance for the superintendents of such boards, and providing daily compensation for members of such boards when such boards meet officially to transact business.

Be It Enacted by the Legislature of Alabama:

Section 1. In counties having populations of not less than 14,000 and not more than 15,000, according to the most recent federal decennial census, hereafter the superintendents of the boards of education of such counties shall receive an annual expense allowance of $3000.00, payable in addition to any salary, expense allowance, or other compensation now payable, and payable in equal monthly installments from the general funds of such counties.

Section 2. The members of the board of education of such counties shall be compensated at the rate of $25.00 per day for each day's attendance at official meetings of such boards; said compensation to be payable from funds available to the County Board of Education.

Section 3. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:15 P.M.

Act No. 834 H. 1874—Turner, Cottingham

AN ACT

Relating to counties having a population of not less than 54,500 nor more than 56,000 according to the most recent federal decennial census; to provide for the total rehabilitation of certain persons, both male and female, convicted of any type crime and sentenced to a term of confinement in the county jail of any such counties.

Be It Enacted by the Legislature of Alabama:

Section 1. The provisions of this Act shall apply to all counties having a population of not less than 54,500 nor more

than 56,000 according to the most recent federal decennial census.

Section 2. Definitions, as used in this Act, certain terms shall have the following meaning:

(1) "Board" shall mean County Rehabilitation Board composed of the Probate Judge, the District Attorney and the Sheriff.

(2) "Inmate" shall mean a person either male or female, convicted of a crime and sentenced to a term of confinement in the county jail.

Section 3. Extended Limits of Confinements. The Board shall adopt regulations and policies permitting the Sheriff to extend the limits of the place of confinement of an inmate, as to whom there is reasonable cause to believe he will know his trust, by authorizing him under prescribed conditions, to leave the confines of the county jail unaccompanied by a custodial agent for a prescribed period of time to work at paid employment, while continuing as an inmate in the county jail in which he shall be confined except during the hours of his employment, and traveling thereto and therefrom. Inmates shall participate in paid employment at the discretion of the Board.

Section 4. Wages. The employer of an inmate involved in the work release program shall pay the inmate's wages direct to the Board. The Board may adopt regulations concerning the disbursement of any earnings of the inmates involved in the work release program. The Board is authorized to withhold from an inmate's earnings 20 percent of his or her gross earnings to pay such cost incident to the inmate's confinement. After 20 percent has been deducted from the inmate's gross pay the remainder of the inmate's earnings shall be credited to his account in a local bank, and upon his release from confinement shall be turned over to the inmate. The Board may elect, however, to pay the remaining 80 percent of the inmate's earnings to his family to be used by them for their support while the inmate is confined, provided the inmate consents to such payment.

Section 5. Escape. The willful failure of an inmate to remain within the extended limits of his confinement or to return to the county jail within the time prescribed by the Sheriff shall be deemed as an escape from the custody of the Sheriff and shall be punishable as prescribed by Title 14, Section 151(1) Code of Alabama.

Section 6. Investigation and Recommendation. Employees of the Board or persons designated by the Board are author-

ized to make investigations and recommendations pertaining to the validity of request for job opportunities for inmates and to otherwise assist the Sheriff in the implementation of the program herein authorized.

Section 7. Securing Employment. The Board or members of the Board shall endeavor to secure employment for eligible inmates under this Act subject to the following:

(1) Such employment must be at a wage at least as high as the prevailing wage for similar work in the area or community where the work is performed in accordance with the prevailing working conditions in such area;

(2) Such employment shall not result in displacement of employed workers;

(3) Inmates eligible for work release shall not be employed as strike-breakers or in impairing any existing contracts;

(4) Exploitation of eligible inmates, in any form, is prohibited either as it might effect the community, the inmates, or the Board.

Section 8. Education. The Board, at its discretion, may also allow an inmate to participate in the release program to further the inmates education. Under this section the inmate must follow all the rules and regulations prescribed for other inmates participating in the work release program.

Section 9. Furloughs. The Board may adopts rules and allow the Sheriff to grant furloughs or leave time not to exceed three consecutive days or 72 hours to inmates who the Board deems are deserving.

Section 10. Inmate Not An Agent Of State Or Country. No inmate granted privileges under the provisions of this Act shall be deemed to be an agent, employee, or involuntary servant of the Board, State, or County, while involved in the free community or while going to and from employment, or other specified areas or while on furlough.

Section 11. Reports. The Sheriff or person designated by the Board shall prepare an annual report to be filed with the Board not later than sixty days from the close of each fiscal year showing the operations and administrations and suggestions as deemed advisable. The Board shall designate someone to keep such records as they deem appropriate and shall compensate them from the 20% earnings retained from the inmates.

Section 12. Penalty Clause. Anyone violating any of the provisions of this Act shall be guilty of a misdemeanor.

Section 13. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 14. All laws or parts of laws which conflict with this Act are repealed.

Section 15. This Act shall become effective immediately upon its passage and approval by the Governor, or, upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:15 P.M.

Act No. 835 H. 1876—Owens

AN ACT

To amend Act No. 981, H. 885 of the Regular Session of 1971 (Acts of 1971, p. 1752), which provides for the institution and prosecution of misdemeanor cases for the County Court of Bibb County and authorizes, provides for and regulates certain procedures in such court before the Clerk of the Circuit Court, Ex-Officio Clerk of the County Court of Bibb County, amending the title and Section 1, of such Act so as: To provide that the same procedures may be followed in a Justice Court established in Bibb County as authorized in Act No. 2445, H. 2343 of the 1971 Regular Session (Acts 1971, p. 3907), if such a court is established, and that the Clerk of the Circuit Court shall serve Ex-Officio as Clerk of such Justice Court; and to provide that the Clerk shall be entitled to the fees prescribed so long as he is compensated on a fee basis, but that if the method of his compensation is changed to a salary basis, such fee shall continue to be collected and paid into the county treasury.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 981, H. 885 of the Regular Session of 1971 (Acts of 1971, p. 1752), which provides for the institution and prosecution of misdemeanor cases for the County Court of Bibb County and provides for and regulates certain procedures in such court, is hereby amended to read as follows:

"An Act To provide further for the institution and prosecution of misdemeanor cases in certain inferior courts of Bibb County; to provide that the Clerk of the Circuit Court of Bibb County shall serve ex-officio as clerk of such inferior courts; and to authorize him when so serving to take oaths in support of complaints or affidavits, to issue warrants of arrest thereon returnable to such inferior courts, to receive pleas of guilty and to set the punishment therefor with the judge of the court making the formal minute or judgment entry on a subsequent date without the presence of the defendant."

Section 2. Section 1 of said Act No. 981, H. 885 of the Regular Session of 1971 (Acts of 1971, p. 1752), is hereby amended to read as follows:

"Section 1. The Clerk of the Circuit Court of Bibb County shall be Ex-Officio the Clerk of the County Court of Bibb County and also the Clerk of a Justice Court established in Bibb County as authorized in Act No. 2445, H. 2343 of the 1971 Regular Session (Acts 1971, p. 3907), if such a court is established in Bibb County. Prosecution of persons charged with misdemeanors in Bibb County, Alabama, may be begun, by affidavit made before the Clerk of the Circuit Court when serving as Ex-Officio Clerk of the County Court of Bibb County or when serving as Ex-Officio Clerk of such a Justice Court and warrant of arrest issued thereon by said clerk returnable to the County Court or the Justice Court as the case may be; and thereupon the jurisdiction of the County Court or the Justice Court, as the case may be, shall attach, and the case shall proceed to trial upon said affidavit and warrant in either of such courts, under the same rules and procedures as is provided by law in misdemeanor cases. The clerk shall be entitled to a fee of one dollar for each warrant issued, so long as he is compensated on a fee basis; but should the method of compensating the Circuit Clerk of Bibb County be changed to a salary basis, then such clerk when serving as Ex-Officio Clerk of either the County Court or of a Justice Court established under authority of said Act No. 2445, shall continue to collect the fee herein prescribed and shall pay said fee into the county treasury of Bibb County."

Section 3. The court cost and fees in the Justice Court herein created shall be the same as the court cost and fees charged in the County Court of Bibb County, Alabama and the disposition thereof shall be the same as that in the County Court.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:15 P.M.

Act No. 836 H. 1893—Connell, Crawford

AN ACT

Relating to Houston County; to prevent nepotism in county service, prohibiting any officer of employee of the county or county agencies from appointing persons related to him to any office or position of profit with the county or any agency thereof, and prescribing penalties.

Be It Enacted by the Legislature of Alabama:

Section 1. After this act takes effect no officer or employee of Houston County or of any county department, board, bureau, committee, commission, institution, corporation, authority or other agency of the county shall appoint any person related to him within the fourth degree of affinity or consanguinity to any job, position, or office of profit with the county or with any of its agencies. Any person related to the appointing authority within the prohibited degree shall be ineligible to serve in any capacity with the county under authority of such an appointment and any appointment so attempted shall be void. Whoever violates this Act is guilty of a misdemeanor and shall be punished be a fine not to exceed $500 or by imprisonment not to exceed one year, or both.

Section 1. (a) The provision of this act shall not apply to any individual or individuals employed as of the effective date of this act in any branch, department or bureau of the county.

Section 2. All laws or parts of laws which conflict with this Act are repealed.

Section 3. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. This Act shall become effective immediately upon its passage.

Approved September 5, 1973.

Time: 5:15 P.M.

Act No. 837 H. 1894—Connell, Crawford

AN ACT

Relating to Houston County; to provide for the compensation of the judge of probate in said county, and repealing conflicting laws.

Be It Enacted by the Legislature of Alabama:

Section 1. The judge of probate of Houston County shall be entitled to a salary of Fifteen Thousand Dollars ($15,000) per annum, payable in equal monthly installments from the general fund of the said county.

Section 2. This Act shall supersede (Act No. 1104, page 1935, Regular Session of the Legislature of Alabama 1971).

Section 3. This Act shall take effect on the expiration of the current term of office of the judge of probate.

Approved September 5, 1973.

Time: 5:15 P.M.

Act No. 838 H. 1920—Cottingham

AN ACT

Relating to counties having populations of not less than 54,500 nor more than 56,000 according to the most recent or any subsequent federal decennial census; further providing for the procedure for redeeming lands sold for taxes in such counties; transferring certain duties of the probate judge to the tax collector; relieving the probate judge of such duties; and repealing conflicting Acts.

Be It Enacted by the Legislature of Alabama:

Section 1. In all counties having populations of not less than 54,500 nor more than 56,000, according to the most recent federal decennial census, the procedure for redeeming lands sold for taxes in such counties shall be the same as provided in Article 5, Chapter 14, Title 51, Code of Alabama 1940, as amended, except that all such duties as are required of and performed by the probate judge shall be transferred to and be performed by the tax collector, and the probate judge shall be relieved of all such duties.

Section 2. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this Act are repealed.

Section 4. This Act shall take effect on the first day of the month next following the date of its enactment, but it shall not affect proceedings that were begun before such date.

Approved September 5, 1973

Time: 5:30 P.M.

Act No. 839 H. 1926—Lutz, Grainger, King, Hearn, Hale

AN ACT

To repeal Act No. 2190, H. B. 2769, Regular Session 1971, (Acts 1971, P. 3504), entitled "An Act relating to all counties having a population

of not less than 175,000 nor more than 300,000, according to the most recent and any subsequent federal decennial census; to provide for the appointment and compensation of a bailiff in the county court in such counties; to repeal conflicting laws."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 2190, H. B. 2769, Regular Session 1971 (Acts 1971, P. 3504), entitled, "An Act relating to all counties having a population of not less than 175,000 nor more than 300,000 according to the most recent and any subsequent federal decennial census; to provide for the appointment and compensation of a bailiff in the county court in such counties; to repeal conflicting laws," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973

Time: 5:30 P.M.

Act No. 840 H. 1927—Lutz, Grainger, King, Hearn, Hale

AN ACT

Relating to Madison County; providing for the appointment and compensation of a bailiff for each judge of the County Court and repealing conflicting laws.

Be It Enacted by the Legislature of Alabama:

Section 1. In Madison County, any other provision of the law to the contrary notwithstanding, each judge of the County Court shall have the power and authority to appoint a bailiff to serve in such court. Each bailiff so appointed shall receive a salary equal to the salary paid to the bailiffs of the Circuit Court in Madison County, which salary shall be payable in equal installments out of the treasury of the county upon warrant of the Chairman of the County Commission or like governing body of the county. Each bailiff so appointed shall hold office at the will and pleasure of the judge appointing him.

Section 2. All laws or parts of laws which conflict with this act are hereby repealed.

Section 3. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973

Time: 5:30 P.M.

Act No. 841 H. 1928—Lutz, Grainger, King, Hearn, Hale

AN ACT

To repeal Act No. 2282, S. 1220, Regular Session 1971, (Acts 1971, p. 3683), entitled "An Act To provide that the Family Court Division of the Circuit Court of all counties having a population of not less than 175,000 nor more than 300,000 according to the last federal decennial census shall collect a filing fee for the filing of juvenile cases in such court and providing further that the judges of such courts may assess a fine against juveniles for the violation of law and providing for the disposition of such costs and fine."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 2282, S. 1220, Regular Session 1971, (Acts 1971, p. 3683), entitled "An Act To provide that the Family Court Division of the Circuit Court of all counties having a population of not less than 175,000 nor more than 300,000 according to the last federal decennial census shall collect a filing fee for the filing of juvenile cases in such court and providing further that the judges of such courts may assess a fine against juveniles for the violation of law and providing for the disposition of such costs and fine," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973

Time: 5:30 P.M.

Act No. 842 H. 1929—Lutz, Granger, King, Hearn, Hale

AN ACT

To repeal Act No. 2189, H. 2768, Regular Session 1971, (Acts 1971, p. 3503), entitled, "An Act To provide that the Family Court Division of the Circuit Court of all counties having a population of not less than 175,000 nor more than 300,000 according to the last federal decennial census shall collect a filing fee for the filing of juvenile

cases in such court and providing further that the Judges of such courts may assess a fine against juveniles for the violation of law and providing for the disposition of such costs and fine.

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 2189, H. 2768, Regular Session 1971, (Acts 1971, p. 3503), entitled, "An Act To provide that the Family Court Division of the Circuit Court of all counties having a population of not less than 175,000 nor more than 300,000 according to the last federal decennial census shall collect a filing fee for the filing of juvenile cases in such court and providing further that the Judges of such courts may assess a fine against juveniles for the violation of law and providing for the disposition of such costs and fine," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973

Time: 5:30 P.M.

Act No. 843 H. 1930—Lutz, Grainger, King, Hearn, Hale

AN ACT

Relating to Madison County; providing that the Family Court Division of the Circuit Court shall collect a filing fee for the filing of juvenile cases in such court and providing further the judges of such court may assess a fine against juveniles for the violation of law and providing for the disposition of such cost and fine.

Be It Enacted by the Legislature of Alabama:

Section 1. The Family Court Division of the Circuit Court of Madison County may assess and collect a fee in the amount of $15.00 for the filing of each case in such court wherein a juvenile is adjudged to be delinquent under the provisions of Chapter 7, Title 13, Code of Alabama.

Section 2. The fee so collected shall be paid into the general fund of Madison County by the 10th of the month following collection thereof.

Section 3. Any person convicted of violating any of the offenses or provisions of Chapter 7, Title 13, Code of Alabama, may be fined by the Judge of said court in an amount not more than $500.00.

Section 4. The fines so collected by the Family Court Division of such Circuit Court shall be paid into the general fund of the county by the 10th of the month following collection.

Section 5. This Act is cumulative. Nothing herein contained shall alter or change any existing law relating to fees to be collected in Madison County by such court or the power, authority or duty of the Judge of such court to impose fines for offenses committed.

Section 6. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 7. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973

Time: 5:30 P.M.

Act No. 844 H. 1931—Lutz, Grainger, King, Hearn, Hale

AN ACT

To repeal Act No. 1199, H. 2111, Regular Session 1971, (Acts 1971, p. 2078), entitled, "An Act Relating to counties having a population of not less than 175,000 nor more than 300,000, prohibiting the pollution, discoloration, contamination, clogging or diversion of public streams, and providing penalties for violations."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1199, H. 2111, Regular Session 1971, (Acts 1971, p. 2078), entitled, "An Act Relating to counties having a population of not less than 175,000 nor more than 300,000, prohibiting the pollution, discoloration, contamination, clogging or diversion of public streams, and provided penalties for violations," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973

Time: 5:30 P.M.

Act. No. 845 H. 1932—Grainger, Lutz, King, Hearn, Hale

AN ACT

Relating to Madison County; prohibiting the pollution, discolora-

tion, contamination, clogging or diversion of public streams, and providing penalties for violations of any of the provisions of this Act.

Be It Enacted by the Legislature of Alabama:

Section 1. In Madison County, it shall be unlawful for any person, firm, corporation, or association to discharge, dispose or negligently to allow the deposit in the public streams of the county, of any wastes composed of raw sewage, industrial wastes or other wastes including any soil, sand, clay, chalk, kaolin, muck, slush or other residue resulting from any excavations or preparations for roads, bridges, industrial, recreational or other building sites, or mining operations, (Not limited to but including hydraulic mining operations), soil testing, reclamation projects or other operations of any nature whatsoever in such manner as to pollute, discolor, contaminate, clog, or divert the public streams in the county; unless said waste is first treated or processed in accordance with the standards promulgated by the Alabama Water Improvement Commission.

Section 2. Any person, firm, corporation or association violating any of the provisions of this Act shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than five hundred dollars and may also be imprisoned in the county jail or sentenced to hard labor for the county, for not more than six months. Each day such violation continues shall constitute a separate offense.

Section 3. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 5. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973

Time: 5:30 P.M.

Act No. 846 H. 1933—Lutz, King, Hearn, Hale, Grainger

AN ACT

To repeal Act No. 1479, S. 1019, Regular Session 1971, (Acts 1971, p. 2535), entitled, "An Act Relating to counties having populations of not less than 175,000 nor more than 300,000, acording to the most recent federal decennial census, and to certain cities therein; providing

for acquisition, construction, maintenance, management, and operation of places of detention for juveniles in such counties and cities."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1479, S. 1019, Regular Session 1971, (Acts 1971, p. 2535), entitled, "An Act Relating to counties having populations of not less than 175,000 nor more than 300,000, according to the most recent federal decennial census, and to certain cities therein; providing for acquisition, construction, maintenance, management, and operation of places of detention for juveniles in such counties and cities," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973

Time: 5:30 P.M.

Act No. 847 H. 1934—Lutz, King, Hearn, Hale, Grainger

AN ACT

To repeal Act No. 1333, H. 2121, Regular Session 1971, (Acts 1971, p. 2282), entitled, "An Act Relating to counties having populations of not less than 175,000 nor more than 300,000, according to the most recent federal decennial census, and to certain cities therein; providing for acquisition, construction, maintenance, management, and operation of places of detention for juveniles and persons confined on orders of family court judges in such counties and cities."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1333, H. 2121, Regular Session 1971, (Acts 1971, p. 2282), entitled, "An Act Relating to counties having populations of not less than 175,000 nor more than 300,000, according to the most recent federal decennial census, and to certain cities therein; providing for acquisition, construction, maintenance, management, and operation of places of detention for juveniles and persons confined on orders of family court judges in such counties and cities," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973

Time: 5:30 P.M.

Act No. 848 H. 1935—Lutz, King, Hearn, Hale, Grainger

AN ACT

Relating to Madison County and the City of Huntsville in Madison County; providing for the maintenance, management and operation of places of detention for juveniles.

Be It Enacted by the Legislature of Alabama:

Section 1. The aggregate of all costs of operating the place or places of detention provided for the detention of juveniles shall be borne share and share alike by Madison County and the City of Huntsville. Salaries and other like current expenses of operation shall be paid by the county in the first instance, and the city commission or council or other like governing body of the city shall reimburse the county for its share.

Section 2. The place or places of detention for juveniles in Madison County and the City of Huntsville shall be under the supervision, management, and control of the judge of the juvenile or family court division of the circuit court of Madison County. Said judge shall appoint all employees of said place or places and said employees shall be subject to the county wide merit or civil service system, if any such system be in existence in said county.

Section 4. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973

Time: 5:30 P.M.

Act No. 849 H. 1936—Lutz, King, Hearn, Hale, Grainger

AN ACT

To repeal Act No. 1327, H. B. 2115, Regular Session 1971, (Acts 1971, p. 2277), entitled, "An Act To provide, in all judicial circuits composed of one county having a population of between 175,000 and 300,000 persons according to the last Federal Decennial Census, for placing in the general fund of the county composing each of said judicial circuits all surplus funds given to the District Attorney's Office, in any such judicial circuit, by accused persons as restitution for worthless checks; which surplus funds, after an audit and diligent search cannot be applied to an existing case in the judicial circuit where such funds were paid in."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1327, H. B. 2115, Regular Session 1971, (Acts 1971, p. 2277), entitled, "An Act To provide, in all judicial circuits composed of one county having a population of between 175,000 and 300,000 persons according to the last Federal Decennial Census, for placing in the general fund of the county composing each of said judicial circuits all surplus funds given to the District Attorney's Office, in any such judicial circuit, by accused persons as restitution for worthless checks; which surplus funds, after an audit and diligent search cannot be applied to an existing case in the judicial circuit where such funds were paid in," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved September 5, 1973

Time: 5:30 P.M.

Act No. 850 H. 1937—Lutz, Hearn, Hale, Grainger, King

AN ACT

To repeal Act No. 1884, S. B. 1021, Regular Session 1971, (Act 1971, p. 3068), entitled, "An Act To provide, in all judicial circuits composed of one county having a population of between 175,000 and 300,000 persons according to the last Federal Decennial Census, for placing in the general fund of the county composing each of said judicial circuits all surplus funds given to the District Attorney's Office, in any such judicial circuit, by accused persons as restitution for worthless checks, which surplus funds, after an audit and diligent search cannot be applied to an existing case in the judicial circuit where such funds were paid in."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1884, S. B. 1021, Regular Session 1971, (Acts 1971, p. 3068), entitled, "An Act To provide, in all judicial circuits composed of one county having a population of between 175,000 and 300,000 persons according to the last Federal Decennial Census, for placing in the general fund of the county composing each of said judicial circuits all surplus funds given to the District Attorney's Office, in any such judicial circuit, by accused persons as restitution for worthless checks, which surplus funds, after an audit and diligent search cannot be applied to an existing case in the judicial circuit where such funds were paid in," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973

Time: 5:30 P.M.

Act No. 851 H. 1938—Lutz, Hearn, Hale, Grainger, King

AN ACT

Relating to Madison County and the Twenty-Third Judicial Circuit; providing for placing in the general fund of the county all surplus funds given to the District Attorney's office in the circuit by accused persons as restitution for worthless checks; which surplus funds, after an audit and diligent search cannot be applied to an existing case in which such funds were paid in.

Be It Enacted by the Legislature of Alabama:

Section 1. In Madison County and the Twenty-Third Judicial Circuit, the District Attorney for said judicial circuit is authorized to conduct or cause to be conducted an audit and search of all records pertaining to all funds paid to the District Attorney or any of his assistants or employees for the purpose of restitution on any case of issuing a worthless check or similar charge.

Section 2. All monies paid to the District Attorney of the Twenty-Third Judicial Circuit or any of his assistants or other employees for the purpose of restitution on any case of issuing a worthless check or similar charge, which cannot, after a thorough audit and search of the records, be applied to particular cases pending in the circuit, shall, as soon as is practicable after the enactment of this law, be paid by the District Attorney of said judicial circuit into the general fund of the county.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973

Time: 5:30 P.M.

Act No. 852 H. 1939—Lutz, Hearn, Hale, Grainger, King

AN ACT

To repeal Act No. 1389, H. 2304, Regular Session 1971, (Acts 1971, p. 2340), entitled, "An Act To provide for the position of Administra-

tive Assistant to the District Attorney and the position of Office Manager-Legal Secretary to the District Attorney in judicial circuits, composed of one county, having a population of between 175,000 and 300,000 persons according to the last Federal Decennial Census."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1389, H. 2304, Regular Session 1971, Acts 1971, p. 2340), entitled, "An Act To provide for the position of Administrative Assistant to the District Attorney and the position of Office Manager-Legal Secretary to the District Attorney in judicial circuits, composed of one county, having a population of between 175,000 and 300,000 persons according to the last Federal Decennial Census," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973

Time: 5:30 P.M.

Act No. 853 H. 1940—Lutz, Hearn, Hale, Grainger, King

AN ACT

To repeal Act No. 1492, S. 1088, Regular Session 1971, (Acts 1971, p. 2570), entitled, "An Act To provide for the position of Administrative Assistant to the District Attorney and the position of Office Manager-Legal Secretary to the District Attorney in judicial circuits, composed of one county, having a population of between 175,000 and 300,000 persons according to the last Federal Decennial Census.

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1492, S. 1088, Regular Session 1971, (Acts 1971, p. 2570), entitled, "An Act To provide for the position of Administrative Assistant to the District Attorney and the position of Office Manager-Legal Secretary to the District Attorney in judicial circuits, composed of one county, having a population of between 175,000 and 300,000 persons according to the last Federal Decennial Census," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973

Time: 5:30 P.M.

Act No. 854 H. 1942—Lutz, Hearn, Hale, Grainger, King

AN ACT

To repeal Act No. 1321, H. 2105, Regular Session 1971, (Acts 1971, p. 2272), entitled, "An Act Relating to city recorders; providing for appointment of recorder in cities having populations of not less than 135,000 nor more than 185,000, according to the 1970 or any subsequent Federal Decennial Census."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1321, H. 2105, Regular Session 1971 (Acts 1971, p. 2272), entitled, "An Act Relating to city recorders; providing for appointment of recorders in cities having populations of not less than 135,000 nor more than 185,000, according to the 1970 or any subsequent Federal Decennial Census," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973

Time: 5:30 P.M.

Act No. 855 H. 1943—Lutz, Hale, Grainger, King, Hearn

AN ACT

Relating to the City of Huntsville in Madison County; and providing for the appointment of city recorders.

Be It Enacted by the Legislature of Alabama:

Section 1. In the City of Huntsville in Madison County there shall be the office of recorder who shall have all the power and jurisdiction conferred by law or other recorders of cities in the State of Alabama. The court presided over by the recorder shall be entitled "The Recorders Court" and the Council or other governing body of the City of Huntsville shall elect, designate, and appoint a recorder of such court, whose official title shall be "Presiding Judge of the Recorders Court," and shall further elect, designate and appoint as many deputy recorders, whose office title shall be "Deputy Judges of the Recorders Court" as deemed necessary and proper. In the absence, disqualification, or disability for any reason of the presiding judge and of the deputy judges of said court, the president of the Council or other governing body may designate and appoint an acting judge of such court who must possess the necessary qualifications to be appointed presiding judge

as herein provided; and such persons, when so designated and appointed, shall have all power and jurisdiction conferred by law upon recorders in the State of Alabama. No person shall be eligible for the office of presiding judge or deputy judge who is not a duly qualified elector of such city and who is not admitted to the practice of law before the Supreme Court of the State of Alabama. All deputy judges appointed shall have all the power and authority recorders have under the laws of the State.

Section 2. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 3. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973

Time: 5:30 P.M.

Act No. 856 H. 1944—Lutz, Grainger, Hale, King, Hearn

AN ACT

To repeal Act No. 1325, H. 2110, Regular Session 1971, (Acts 1971, p. 2275)), entitled, "An Act Relating to counties having populations of not less than 175,000 nor more than 300,000, according to the most recent federal decennial census; to permit the county governing body to provide parking for certain persons; to repeal conflicting laws."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1325, H. 2110, Regular Session 1971, (Acts 1971, p. 2275), entitled, "An Act Relating to counties having populations of not less than 175,000 nor more than 300,000 according to the most recent federal decennial census; to permit the county governing body to provide parking for certain persons; to repeal conflicting laws," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973

Time: 5:30 P.M.

Act No. 857 H. 1945—Lutz, Hale, King, Hearn, Grainger

AN ACT

To repeal Act No. 1481, S. 1024, Regular Session 1971, (Acts 1971, p. 2537), entitled, "An Act Relating to counties having populations of not less than 175,000 nor more than 300,000, according to the most recent federal decennial census; to permit the county governing body to provide parking for certain persons; to repeal conflicting laws."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1481, S. 1024, Regular Session 1971, (Acts 1971, p. 2537), entitled, "An Act Relating to counties having populations of not less than 175,000 nor more than 300,000, according to the most recent federal decennial census; to permit the county governing body to provide parking for certain persons; to repeal conflicting laws," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973

Time: 5:30 P.M.

Act No. 858 H. 1946—Lutz, Hale, Grainger, King, Hearn

AN ACT

To repeal Act No. 884, H. B. 1241, Regular Session 1969, (Acts 1969, v.2, p. 1590), entitled, "An Act Relating to counties having populations of no less than 110,000 nor more than 160,000 according to the most recent federal decennial census; to permit the county governing body to provide parking for certain persons; to repeal conflicting laws."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 884, H. B. 1241, Regular Session 1969, (Acts 1969, v.11, p. 1590), entitled, "An Act Relating to counties having populations of not less than 110,000 nor more than 160,000 according to the most recent federal decennial census; to permit the county governing body to provide parking for certain persons; to repeal conflicting laws," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973

Time: 5:30 P.M.

Act No. 859 H. 1947—Lutz, Hearn, Grainger, Hale, King

AN ACT

To repeal Act No. 234, H. 255, Third Special Session 1971 (Acts 1971, p. 4504), entitled, "An Act To apply only to counties having a population of not less than 175,000 nor more than 300,000 according to the most recent federal decennial census; to permit the county governing body to provide parking for certain persons; to repeal conflicting laws."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 234, H. 255, Third Special Session 1971, (Acts 1971, p. 4504), entitled, "An Act To apply only to counties having a population of not less than 175,000 nor more than 300,000 according to the most recent federal decennial census; to permit the county governing body to provide parking for certain persons; to repeal conflicting laws," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973

Time: 5:30 P.M.

Act No. 860 H. 1948—Lutz, Hearn, King, Hale, Grainger

AN ACT

Relating to Madison County; permitting the county governing body to provide parking for certain persons and validating expenses incurred by the county governing body relative to parking prior to the passage of the Act.

Be It Enacted by the Legislature of Alabama:

Section 1. In Madison County, the governing body of the county is hereby authorized to provide adequate parking for the automobiles or motor vehicles used by petit jurors, grand jurors, witnesses and employees of the state and county having offices in the county courthouse. The county governing body may furnish such parking through the acquisition and operation of parking lots, by contracting with any private or public agency for said purpose under such terms as it may deem necessary and desirable or by reimbursing those persons covered by this act for their personal expenses in securing such parking.

Section 2. All such costs, expenses and payments made by the county governing body of Madison County prior to the passage of this Act are hereby validated.

Section 3. All laws or parts of law which conflict with this Act are repealed.

Section 4. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional such declaration shall not affect the part which remains.

Section 5. This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved September 5, 1973

Time: 5:30 P.M.

Act No. 861 H. 1949—Lutz, Hearn, Grainger, King, Hale

AN ACT

To repeal Act No. 323, H. 416, Third Special Session 1971, (Acts 1971, p. 4612), entitled, "An Act Providing for the election of a president and vice president of the city board of education to such boards in cities having a population of not less than 135,000 nor more than 180,000 according to the last or any subsequent federal decennial census."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 323, H. 416, Third Special Session 1971, (Act 1971, p. 4612), entitled, "An Act Providing for the election of a president and vice president of the city board of education to such boards in cities having a population of not less than 135,000 nor more than 180,000 according to the last or any subsequent federal decennial census," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973

Time: 5:30 P.M.

Act No. 862 H. 1951—Lutz, King, Grainger, Hale, Hearn

AN ACT

To repeal Act No. 1330, H. 2118, Regular Session 1971, (Acts 1971, p. 2279), entitled, "An Act To apply only in counties having a population of not less than 175,000 nor more than 300,000 acording to the most recent federal decennial census; fixing and providing for the payment of compensation of the members and chairman of the county governing body and providing for the payment of expenses incurred in the performance of their duties."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1330, H. 2118, Regular Session 1971, (Acts 1971, p. 2279), entitled, "An Act To apply only in counties having a population of not less than 175,000 nor more than 300,000 according to the most recent federal decennial census; fixing and providing for the payment of compensation of the members and chairman of the county governing body and providing for the payment of expenses incurred in the performance of their duties," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973

Time: 5:30 P.M.

Act No. 863 H. 1509—Wood, Downing

AN ACT

Relating to all counties having populations of not less than 300,000 nor more than 500,000 according to the 1970 or any subsequent Federal decennial census; authorizing the Alabama Alcoholic Beverage Control Board to permit in such counties the handling and sale of "table wines" as therein defined and distinguished from "fortified wines" in manner similar to the procedure by which beer, malt or brewed beverages are now sold.

Be It Enacted by the Legislature of Alabama:

"**Section 1.** Definitions.—The following words or phrases, unless the context clearly indicates otherwise, shall have the meaning ascribed to them in this section.

"(a) 'Board' shall mean the 'Alcoholic Beverage Control Board.'

"(b) 'Malt' or 'Brewed Beverages,' means any beer, lager beer, ale, porter, or similar fermented malt liquor containing one-half of one percentum or more of alcohol by volume, by whatever name the same may be called.

"(c) 'Wine,' 'vinous beverages,' 'vinous liquors' means all beverages made from the fermentation of fresh fruits, berries or grapes, with or without added brandy, and produced in accordance with the laws and regulations of the United States, containing not more than twenty-four percent alcohol by volume, and includes all sparkling wines, carbonated wines, special

natural wines, rectified wines, vermouths and like products, including restored or unrestored pure condensed juice.

"(d) 'Manufacturer' shall mean any person, association or corporation engaged in the producing, bottling, manufacturing, distilling, rectifying or compounding of liquor, alcohol and malt or brewed beverages or vinous beverages.

"(e) 'Municipality' shall mean any incorporated city or town of this state, and its policy jurisdiction.

"(f) 'Person' shall mean every natural person, association, or corporation. Whenever used in a clause prescribing or imposing a fine or imprisonment, or both, the term 'person' as applied to 'association' shall mean the partners or members thereof and as applied to 'corporation' shall mean the officers thereof, except as to incorporated clubs the term 'person' shall mean such individual or individuals who, under the by-laws of such clubs, shall have jurisdiction over the possession and sale of liquor therein.

"(g) 'Beer Wholesaler, Distributor or Jobber,' means and includes any person licensed by the board to engage in the sale and distribution within this state, at wholesale only, of malt or brewed beverages of an alcoholic content not in excess of four percent by weight and five percent by volume, to be sold only to licensed dealers as defined in this chapter.

"(h) 'Wine Wholesaler, Distribtuor or Jobber,' means and includes any person licensed by the board to engage in the sale and distribution of table wine (of alcoholic content fourteen percent or less) within counties in which this Act applies at wholesale only, to be sold for export or to licensees within this state authorized by their licenses to sell wine.

"(i) 'Wine retailer,' means and includes persons licensed by the board to engage in the retail sale of table wine to be consumed off the premises, and who do not possess a state liquor license.

"(j) 'Table wine' means any wine containing not more than fourteen percent alcohol by volume. 'Fortified wine' means any wine containing more than fourteen percent alcohol but not more than twenty-four percent alcohol by volume."

"Section 2. Section 24 of Chapter 1, Title 29, Code of Alabama, 1940, is amended by adding the following: In all counties having a population of not less than 300,000 nor more than 500,000 according to the 1970 or any subsequent Federal Decennial Census, table wines as herein defined may be sold at retail by any licensed wine retailer, as herein defined for off premise

consumption only. A wine wholesaler, as herein defined may sell to a wine retailer table wines that have been purchased from a licensed manufacturer as herein defined.

"**Section 3.** Retail Wine License.—In such counties as this Act applies the board shall have authority to issue a retail wine license for any retail outlet kept or operated by a wine retailer for the retail sale of table wines for off premise consumption in counties that this Act applies.

"**Section 4.** Application.—In such counties as this Act applies every applicant for a retail wine license shall file a written application with the board, in such form as the board may prescribe, which shall be accompanied by a license fee of $100.00 and a filing fee of $10.00 together with the amount or amounts of the prescribed license fee or fees, if any levied by the counties in which this Act applies.

"**Section 5.** Issuance.—Upon receipt of the application, the proper fees, and upon being satisfied of the truth of the statements in the application and that the applicant is a person of good repute, the board shall grant and issue to the applicant a retail wine license entitling the applicant to purchase table wine from a licensed wine wholesaler and resell the same at retail for off premise consumption in counties that this Act applies.

Section 6. Wine wholesaler's license.—The Board shall issue to any reputable person who applies therefor, pays the license fee hereinafter prescribed, a wine wholesaler's license which will authorize the licensee to import and receive shipments of table wine from outside the state from licensed manufacturers, to purchase table wine from licensed manufacturers or bottlers of wine within the state, and to sell table wine to licensed wine retailers in counties in which this Act applies. The application for a wholesale wine license shall be in such form as the board may prescribe and shall be accompanied by a license fee of $500.00 and a $10.00 filing fee, together with the amount or amounts of the prescribed license fee or fees, if any, levied by the counties in which this Act applies. In addition the applicant shall file with his original application a bond in the penal sum of not less than $1000.00 nor more than $10,000.00 conditioned upon the payment of the taxes to be collected by the wine wholesaler and remitted to the board.

In counties in which this Act applies licensed beer wholesalers may become licensed wine wholesalers upon filing application with the board and paying the filing fee, the appropriate license fee or fees, and the bond herein required.

Section 7. Manufacturer's License.—Every manufacturer, distiller, winery, supplier, produced or bottler desiring to do

business in this state by selling table wines to wholesale table wine distributors in counties in which this Act applies shall register with the Board prior to making any sales in Alabama. Each such manufacturer, distiller, winery, supplier, producer or bottler shall pay to the Board a filing fee of $250.00.

Each such manufacturer, distiller, winery, supplier, producer or bottler shall be required to file with the Board, prior to making any sales in Alabama a list of its labels to be sold in counties in which this Act applies and shall file with the Board their Federal Certificate of label approvals or its certificates of exemption as required by the U. S. Treasury Department. All table wines whose labels have not been registered as herein provided for shall be considered contraband and may be seized by the Board or its agents, or any peace officer of the State of Alabama without a warrant and said goods shall be delivered to the Board and disposed of as provided by law.

All such manufacturers, distillers, wineries, suppliers, producers or bottlers shall be required to mail to the Board prior to the tenth day of the month a consolidated report of all shipments of table wine made to each wine wholesaler during the preceding month. Such reports shall be certified as true and correct and shall be a complete listing of all items shipped, an invoice setting out the quantities purchased and the price quotation showing at what price such wines were sold, the size, type, brand label and point of destination and such other information as the board may prescribe.

Section 8. License Renewal.—The wine retail, wine wholesale and manufacturer's license herein provided for shall be required to be renewed annually and shall be reissued upon payment to the Board of the appropriate license fee or fees unless the Board has good cause for not reissuing the license. Approval of the local governing body is not necessary for the renewal of an existing license. All license fees paid other than those levied by the counties in which this Act applies shall be retained by the Board as part of its net profit from operation and shall be distributed as such.

Section 9. Suspension or revocation of licenses.—The Board shall have full and final authority as to the suspension and revocation of any license issued hereunder. In addition thereto the Board shall have the authority, in the case of a wine retailer, to invoke a penalty of not less than $250.00 nor more than $500.00 for one or more of the following violations of this Act:

(a) selling wine other than during the legal hours of sale; or

(b) selling wine to a minor.

Section 10. Unlawful Acts.—In addition to the unlawful acts set forth in Section 36 of Chapter 1, Title 29, Code of Alabama 1940, it shall be unlawful for table wine to be sold except between the hours of 9:00 AM and 9:00 PM, Monday through Saturday. No table wine shall be sold on any Sunday, primary election day, general election day or municipal election day. Table wine may not be displayed by a wine retailer other than during the legal hours of sale and if a wine retailer's establishment is open for business other than during the legal hours of sale his wine display must be kept under lock and key and hidden from public view by whatever means are necessary.

Section 11. Advertising.—In the counties in which this Act applies, table wines may be advertised in the same manner and through the same media that beer is now permitted to be advertised.

Section 12. Tax on table wine.—In counties in which this Act applies the tax on table wines shall be the same as levied by Sections 70(1), 70(2), 70(3) and 70(4) of Title 29, Code of Alabama, 1940, and shall be computed as follows: The wine wholesaler shall add to his invoice price to the wine retailer the 35% tax as provided by law and shall collect said tax from the wine retailer who in return shall pass the tax on to the purchaser, it being the purpose and intent of this provision that the tax levied is in fact a levy on the consumer. It shall be unlawful for any wine wholesaler who is required to pay the tax in the first instance to fail or refuse to add to the sales price and collect from the wine retailer the required amount of tax.

The tax on table wine shall be collected by a monthly return which shall be filed by the wine wholesaler, on a form prescribed by the board showing sales for the preceding month and the tax due thereon. The taxes due shall be remitted to the board along with the return. Such taxes paid to the board shall be considered as part of its net profits from operation and shall be distributed by the board. The wine wholesaler or distributor who pays the tax in the first instance is acting as an agent of the state for the collection and payment of the tax and as such may not be required to collect a tax for any other level of government but nothing herein shall be construed to mean that taxes or licensing fees cannot be levied by municipalities in the counties in which this Act applies.

The Board shall have the authority to examine the books and records or any wine wholesaler or retailer to determine the accuracy of any return required to be filed with the board.

Section 13. Stamps.—In counties in which this Act applies

the wine wholesaler must affix a distributor's stamp, as a means of identification, to all table wines sold to a wine retailer. Such stamps may be purchased at cost from the board by any licensed wine wholesaler.

Section 14. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 15. It is the intention of this Act to authorize the sale of table wines, as herein defined, by a licensed wine retailer in counties in which this Act applies and to permit the purchase and resale by licensed wine wholesalers in such counties where this Act applies, to provide for the licensing of wine retailers, wine wholesalers and manufacturer's; to provide for the collection, reporting and remitting of taxes now imposed by law. The provisions of Chapter 1, Article 29, Code of Alabama, 1940, not in conflict with this Act shall apply. However, where a conflict exists the provisions of this Act shall prevail.

Section 16. This Act shall become effective upon its passage and approval by the Governor or upon its otherwise becoming a law, however, no retail sale by a wine retailer shall be made until after September 30, 1973, or until sixty (60) days from the date that this Act becomes law, whichever is later .

Passed, the Governor's veto to the contrary notwithstanding, became law on September 7, 1973.

Act No. 864 H. 516—Mims, Downing, Barkett

AN ACT

To increase certain fees prescribed for the Secretary of State to be charged for services performed in connection with service of process in certain cases, and for such purpose to amend further Code of Alabama 1940, Title 7, Sections 192, 193, and 199, as amended; Act No. 415, S. 280, Regular Session 1959 (Acts 1959, p. 1102), as amended; Act No. 128, S. 120, Regular Session 1949 (Acts 1949, p. 154), as amended; and Act No. 1936, H. 256, Regular Session 1971 (Acts 1971, p. 1325), all relating to such fees.

Be It Enacted by the Legislature of Alabama:

Section 1. Code of Alabama 1940, Title 7, Sections 192, 193, and 199, as amended, are further amended to read:

"Section 192. When a foreign corporation has filed an instrument in writing designating one or more agents in this state as provided by this Code, process, pleadings or papers issuing against such foreign corporation, other than in equity,

may be served upon any agent, so designated; and the certificate of the secretary of state or of the auditor, as the case may be, showing such designation, is evidence of the fact of such agency. In the event such foreign corporation withdraws from this state and ceases to transact business herein, it shall continue to keep and maintain such agent within this state upon whom service of process, pleadings or papers may be made, until the statutes of limitations shall have run against the bringing of action against said corporation. If the agent designated by such foreign corporation shall die, resign, remove from the state, or his authority shall cease from any cause, and no other agent shall be designated by such foreign corporation, or said corporation shall revoke or fail to maintain in effect the authority of its designated agent after its withdrawal from this state and prior to the time when the statutes of limitations would have run against the causes of action so accruing against it, then in that event such corporation shall by a duly executed instrument filed in the office of the secretary of state, constitute and appoint the secretary of state its true and lawful attorney, upon whom all such process, pleadings or papers may be served, and therein shall agree that all such process, pleadings or papers which may be served upon its said attorney, shall be of the same force and validity as if served upon the said corporation, and the authority thereof shall continue in force irrevocably until the statutes of limitations shall have run against the bringing of the action against said corporation, and the same shall be held as due and sufficient service upon such corporation. In the event such corporation shall fail to so constitute and appoint the secretary of state its true and lawful attorney, upon whom all such process, pleadings or papers may be served, and no other such agent shall have been so designated by such corporation for such purpose, then such corporation shall be deemed to have consented to the secretary of state being its true and lawful attorney, upon whom all such process, pleadings or papers may be served, until the statutes of limitations shall have run against the bringing of the action against such corporation, and the same shall be held as due and sufficient service upon such corporation. The secretary of state must immediately transmit by registered mail, return receipt requested, to such foreign corporation at its home office, a copy of such process, pleadings or papers served upon him, retaining the copy of such process, pleadings or papers served upon him along with the return receipt as part of the permanent records of his office. The secretary of state shall refuse to receive and file or serve any process, pleading, or paper under this section unless the same is served by the sheriff of Montgomery county, Alabama, or a United States marshal upon the secretary of state and three copies thereof are supplied secretary of state and a

fee of $10 (ten dollars) is paid to the secretary of state and no service shall be perfected hereunder unless there is on file in the office of the secretary of state a certificate or statement under oath by the plaintiff or his attorney that the provisions of this section are applicable to the case.

"Section 193. Wherever a foreign corporation has carried on or transacted business in this state without qualifying to do business herein as is provided by the Constitution and statutes of this state and there is no other agent and process, pleadings or papers cannot be served on such foreign corporation as is provided in the preceding section, then any legal process, pleadings or papers, other than in equity, concerning causes of action arising out of or as consequence of acts or business done in this state, may be served upon any agent or servant of such foreign corporation who has made contracts for the corporation or did the act which constituted the doing of business in this state; in the event process, pleadings or papers, cannot be served on either of the above named, then such corporation shall be a duly executed instrument filed in the office of the secretary of state, constitute and appoint the secretary of state its true and lawful attorney, upon whom all such process, pleadings or papers may be served, and therein shall agree that all such process, pleadings or papers which may be served upon its said attorney, shall be of the same force and validity as if served upon the said corporation, and the authority thereof shall continue in force irrevocably until the statutes of limitations shall have run against the bringing of the action against said corporation, and the same shall be held as due and sufficient service upon such corporation. In the event such corporation shall fail to so constitute and appoint the scretary of state its true and lawful attorney, upon whom all such process, pleadings or papers may be served, and no other such agent shall have been so designated by such corporation for such purpose, then such corporation shall be deemed to have consented to the secretary of state being its true and lawful attorney, upon whom all such process, pleadings or papers may be served, until the statutes of limitations shall have run against the bringing of the action against said corporation, and the same shall be held as due and sufficient service upon such corporation. The secretary of state must immediately transmit by registered mail, return receipt requested, to such foreign corporation at its home office, a copy of such process, pleadings or papers served upon him, retaining the copy of such process, pleadings or papers served upon him along with the return receipt as part of the permanent records of his office. This section, however, shall not be exclusive of any other mode of service of process, pleadings or papers in the cases herein provided for. The secretary of state shall refuse to re-

ceive and file or serve any process, pleading, or paper under this section unless the same are served by the sheriff of Montgomery county, or a United States marshall upon the secretary of state and three copies thereof are supplied secretary of state and a fee of $10 (ten dollars) is paid to the secretary of state and no service shall be perfected hereunder unless there is on file in the office of the secretary of state a certificate or statement under oath by the plaintiff or his attorney that the provisions of this section are applicable to the case.

"Section 199. The operation by a nonresident of a motor vehicle on a public highway in this state, or the operation on a public highway in this state of a motor vehicle owned by any nonresident and being operated by such nonresident, or his, their or its agent, shall be deemed equivalent to an appointment by such nonresident of the secretary of state of the state of Alabama, or his successor in office, to be such nonresident's, or in case of the death of such nonresident his personal representative's true and lawful agent or attorney upon whom may be served the summons and complaint in any action against such nonresident, or if such nonresident has died, against such nonresident's personal representative, growing out of any accident or collision in which such nonresident may be involved while operating a motor vehicle on such public highway; or in which such motor vehicle may be involved while being operated on such public highway within the state of Alabama; and such operation shall be deemed a signification of such nonresident's agreement and equivalent to an appointment by such nonresident of the secretary of state of the state of Alabama, or his successor in office, to be such nonresident's, or in case of the death of such nonresident, his personal representative's true and lawful agent or attorney upon whom may be served all lawful process in any action or proceedings against such nonresident, or if such nonresident has died, against such nonresident's personal representative, growing out of any accident or collision in which such nonresident may be involved while operating a motor vehicle on such public highway, or in which such motor vehicle may be involved while being operated on such public highway within the state of Alabama, so that any such summons and complaint against such nonresident, or if such nonresident has died, against such nonresident's personal representative, which is so served shall be of the same legal force and effect as if personally served within the state of Alabama. Service of such process shall be made by leaving three copies of the summons and complaint, with a fee of $10 (ten dollars), with the secretary of state of the state of Alabama, and such service shall be sufficient service upon such nonresident defendant; provided, that notice of such service and a copy of the summons and complaint are forthwith sent by registered mail to the defendant by the secretary

of state of the state of Alabama, or his successor in office, and the defendant's return receipt and the certificate of the secretary of state, or his successor in office, of the compliance herewith, which shall be filed in the office of the clerk of the court or in the court wherein said action may be pending. Such certificate of the secretary of state shall show the date of the mailing by registered mail of the notice of the service and copy of the summons and complaint to such nonresident defendant, and the date of the receipt of the return card, and shall be signed by the secretary of state of the state of Alabama, or his successor in office; or provided, that the secretary of state of the state of Alabama in lieu of the notice of service hereinabove provided to be given, by registered mail, in the following manner: By causing or having a notice of such service and a copy of the summons and complaint served upon such nonresident defendant, if found within the state of Alabama, by any officer duly qualified to serve legal process within the state of Alabama, or if such nonresident defendant is found without the state of Alabama, by a sheriff, deputy sheriff, or United States marshal, or deputy United States marshal, or any duly constituted public officer qualified to serve like process in the state of the jurisdiction where such nonresident defendant is found; and the officer's return showing such service, when made, shall be filed in the office of the clerk of the court, or in the court wherein such action is pending, on or before the return day of the process, or within such further time as the court may allow; provided further that the secretary of state, or his successor in office, may require the plaintiff in such action to deposit $2 (two dollars) additional with the secretary of state of the state of Alabama to cover the costs and such officer's fee for serving such notice and process. And the court in which such action is pending may order such nonresident defendant reasonable opportunity to defend the action. The fee of $10 (ten dollars) paid by the plaintiff to the secretary of state, required to be deposited with the secretary of state at the time of the service, and the additional fee of $2 (two dollars) if it is required to be deposited by the plaintiff with the secretary of state, shall be taxed as costs, if he prevails in the suit. The secretary of state shall keep on file in his office a copy of such summons and complaint and also keep a record of all such process which shall show the day and hour and manner of such service.

"This section shall not apply to any foreign corporation that has qualified under the Constitution and laws of this state as to doing business herein, and has designated and has and is maintaining at such time an authorized agent or agents residing in this state upon whom service can be had."

Section 2. Section 2 of Act No. 415, S. 280, Regular Ses-

sion 1959, (Acts 1959, p. 1102), as amended, relating to service of process in civil suits on certain persons who have absented themselves from the state, is further amended to read:

"Section 2. Service of such process shall be made by leaving three copies of the summons and complaint, with a fee of $10 (ten dollars), with the secretary of state of the State of Alabama, and such service shall be sufficient service upon such defendant; provided, that notice of such service and a copy of the summons and complaint are forthwith sent by registered mail to the defendant by the secretary of state of the State of Alabama, or his successor in office, and the defendant's return receipt and the certificate of the secretary of state, or his successor in office, of the compliance herewith, are filed in the office of the clerk of the court or in the court wherein said action may be pending. Such certificate of the secretary of state shall show the date of the mailing by registered mail of the notice of the service and copy of the summons and complaint to such defendant, and the date of the receipt of the return card, and shall be signed by the secretary of state of the State of Alabama, or his successor in office; or, provided, that the secretary of state of the State of Alabama, or his successor in office, may give such absent defendant notice of such service upon the secretary of state of the State of Alabama, in lieu of the notice of service hereinabove provided to be given, by registered mail, in the following manner: By causing or having a notice of such service and a copy of the summons and complaint served upon such defendant, if found within the State of Alabama, by any officer duly qualified to serve legal process within the State of Alabama, or if such defendant is found without the State of Alabama, by a sheriff, deputy sheriff, or United States marshal, or deputy United States marshal, or any duly constituted public officer qualified to serve like process in the state of the jurisdiction where such defendant is found; and the officer's return showing such service, when made, shall be filed in the office of the clerk of the court, or in the court wherein such action is pending, on or before the return day of the process, or within such further time as the court may allow; provided further that the secretary of state, or his successor in office, may require the plaintiff in such action to deposit $2 (two dollars) additional with the secretary of state of the State of Alabama to cover the cost and such officer's fee for serving such notice and process."

Section 3. Section 1 of Act No. 128, S. 120, Regular Session 1949 (Acts 1949, p. 154), as amended, relating to service of process in civil suits on non-resident persons, firms, partnerships and corporations doing business or performing work or services in this state, is further amended to read:

"Section 1. Any non-resident person, firm, partnership, general or limited, or any corporation not qualified under the Constitution and laws of this state as to doing business herein, who shall do any business or perform any character of work or service in this state shall, by the doing of such business or the performing of such work, or services, be deemed to have appointed the secretary of state, or his successor or successors in office, to be the true and lawful attorney or agent of such non-resident, upon whom process may be served in any action accrued, accruing, or resulting from the doing of such business, or the performing of such work or service, or relating to or as an incident thereof, by any such non-resident, or his, its or their agent, servant or employee. And such service shall be valid whether or not the acts done in Alabama shall of and within themselves constitute a complete cause of action. Service of such process shall be made by serving three copies of the process, with a fee of $10 (ten dollars), with the said secretary of state, and such service shall be sufficient service upon the said non-resident of the state of Alabama, provided that notice of such service and a copy of the process are forthwith sent by registered mail by the secretary of the state to the defendant at his last known address, which shall be stated in the affidavit of the plaintiff or complainant hereinafter mentioned, marked 'Deliver to Addressee Only' and 'Return Receipt Requested,' and provided further that such return receipt shall be received by the secretary of state purporting to have been signed by said non-resident, or the secretary of state shall be advised by the postal authority that delivery of said registered mail was refused by said non-resident; and the date on which the secretary of state receives said return receipt, or advice by the postal authority that delivery of said registered mail was refused, shall be treated and considered as the date of service of process on said non-resident. The secretary of state shall make an affidavit as to the service of said process on him, and as to his mailing a copy of the same and notice of such service to the non-resident, and as to the receipt of said return receipt, or advice of the refusal of said registered mail, and the respective dates thereof, and shall attach said affidavit, return receipt, or advice from the postal authority, to a copy of the process and shall return the same to the clerk or register who issued the same, and all of the same shall be filed in the cause by the clerk or register. The party to a cause filed or pending, or his agent or attorney, desiring to obtain service upon a non-resident under the provisions of this section shall make and file in the cause an affidavit stating facts showing that this section is applicable, and stating the residence and last known post office address of the non-resident, and the clerk or register of the court in which the action is filed shall attach a copy of the

affidavit to the writ or process, and a copy of the affidavit to each copy of the writ or process, and forward the original writ or process and three copies thereof to the sheriff of Montgomery county for service on the secretary of state and it shall be the duty of the sheriff to serve the same on the secretary of state and to make due return of such service. The court in which the cause is pending may order such continuance of the cause as may be necessary to afford the defendant or defendants reasonable opportunity to make defense. Any person who was a resident of this state at the time of the doing of business, or performing work or service in this state, but who is a non-resident at the time of the pendency of a cause involving the doing of said business or performance of said work or service, and any corporation which was qualified to do business in this state at the time of doing business herein and which is not qualified at the time of the pendency of a cause involving the doing of such business, shall be deemed a non-resident within the meaning of this section, and service of process under such circumstances may be had as herein provided.

"The secretary of state of the state of Alabama, or his successor in office, may give such non-resident defendant notice of such service upon the secretary of state of the state of Alabama in lieu of the notice of service hereinabove provided to be given, by registered mail, in the following manner: By causing or having a notice of such service and a copy of the process served upon such non-resident defendant, if found within the state of Alabama, by any officer duly qualified to serve legal process within the state of Alabama, or if such non-resident defendant is found without the state of Alabama, by a sheriff, deputy sheriff, or United States marshal, or deputy United States marshal, or any duly constituted public officer qualified to serve like process in the state of the jurisdiction where such non-resident defendant is found; and the officer's return showing such service and when and where made, which shall be under oath, shall be filed in the office of the clerk or register of the court wherein such action is pending.

"Service of summons when obtained upon any such non-resident as above provided for the service of process herein shall be deemed sufficient service of summons and process to give to any of the courts of this state jurisdiction over the cause of action and over such non-resident defendant, or defendants, and shall warrant and authorize personal judgment against such non-resident defendant, or defendants, in the event that the plaintiff prevails in the action.

"The Secretary of State shall refuse to receive and file or serve any process, pleading, or paper under this section unless three copies thereof are supplied to the secretary of state and a

fee of $10 (ten dollars) is paid to the secretary of state; and no service shall be perfected hereunder unless there is on file in the office of the Secretary of State a certificate or statement under oath by the plaintiff or his attorney that the provisions of this section are applicable to the case."

Section 4. Section 2 of Act No. 1936, H. 256, Regular Session 1971 (Acts 1971, p. 3125), relating to service of process on non-resident operators of watercraft and designating the Secretary of State as agent for such service, is amended to read:

"Section 2. Service of such process shall be made by serving three copies of the process, with a fee of $10 (ten dollars) with the said Secretary of State, and such service shall be sufficient service upon such non-resident of the state of Alabama, provided that notice of such service and a copy of the process are forthwith sent by registered mail by the Secretary of the State to the non-resident defendant at his last known address, which shall be stated in the affidavit of the plaintiff or complainant hereinafter mentioned, marked 'Deliver to Addressee Only' and 'Return Receipt Requested,' and provided further that such return receipt shall be received by said non-resident, or the Secretary of State shall be advised by the postal authority that delivery of said registered mail was refused or not accepted by such non-resident; and the date on which the Secretary of State receives said return receipt, or advice by the postal authority that delivery of said registered mail was refused or not accepted shall be treated and considered as the date of service of process on such non-resident. The Secretary of State shall make an affidavit as to the service of said process on him, and as to his mailing a copy of the same and notice of such service to the non-resident, and as to the receipt of said return receipt, or advice of the refusal of said registered mail, and the respective dates thereof, and shall attach said affidavit, return receipt, or advice from the postal authority, to a copy of the process and shall return the same to the clerk or register who issued the same, and all of the same shall be filed in the cause by the clerk or register. The party to a cause filed or pending, or his agent or attorney, desiring to obtain service upon a non-resident under the provisions of this section shall make and file in the cause an affidavit stating facts showing that this section is applicable, and stating the residence and last known post office address of the non-resident, and the clerk or register of the court in which the action is filed shall attach a copy of the affidavit to the writ or process, and a copy of the affidavit to each copy of the writ or process, and forward the original writ or process and three copies thereof to the sheriff of Montgomery county for service on the Secretary of State and it shall be the duty of the sheriff to serve the same on the Secre-

tary of State and to make due return of such service. The court in which the cause is pending may order such continuance of the cause as may be necessary to afford the non-resident defendant or defendants reasonable opportunity to make defense. Any person or firm who was a resident of this state at the time of the operation, charter, management, navigation or maintenance of such boat, ship, barge, or other watercraft in this state, but who is a non-resident at the time of the pendency of a cause involving such operation, charter, management, navigation or maintenance, and any corporation which was qualified to do business in this state at the time of such operation, charter, management, navigation or maintenance and which is not qualified at the time of the pendency of a cause involving such operation, charter, management, navigation or maintenance, shall be deemed a non-resident within the meaning of this section, and service of process under such circumstances may be had as herein provided."

Section 5. This act shall become effective October 1, 1973.

Approved September 5, 1973

Time: 6:00 P.M.

Act No. 865 H. 517—Mims, Lang, Adams, Downing, Barkett

AN ACT

Relating to the uniform commercial code, amending Sections 9-403 through 9-407, inclusive, of Act No. 549, S. 2, Regular Session 1965 (Acts 1965, p. 811), respecting the filing of secured transactions, so as to increase the fees to be paid the filing officer for the performance of certain duties.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 9-403, 9-404, 9-405, 9-406 and 9-407 of Act No. 549, S. 2, Regular Session 1965 (Acts 1965, p. 811) are amended to read as follows:

"Section 9-403. What Constitutes Filing; Duration of Filing; Effect of Lapsed Filing; Duties of Filing Officer.

"(1) Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this Article.

"(2) A filed financing statement which states a maturity date of the obligation secured of five years or less is effective until such maturity date and thereafter for a period of sixty days. Any other filed financing statement is effective for a

period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of such sixty day period after a stated maturity date or on the expiration of such five year period, as the case may be, unless a continuation statement is filed prior to the lapse. Upon such lapse the security interest becomes unperfected. A filed financing statement which states that the obligation secured is payable on demand is effective for five years from the date of filing.

"(3) A continuation statement may be filed by the secured party (i) within six months before and sixty days after a stated maturity date of five years or less, and (ii) otherwise within six months prior to the expiration of the five year period specified in subsection (2). Any such continuation statement must be signed by the secured party, identify the original statement by file number and state that the original statement is still effective. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) unless another continuance statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it.

"(4) A filing officer shall mark each statement with a consecutive file number and with the date and hour of filing and shall hold the statement for public inspection. In addition the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement. In addition to the indexing required in the preceding sentence, statements covering crops growing or to be grown, or goods which are or are to become fixtures, or timber shall be indexed in the real estate mortgage records by the filing officer according to the name of the record owner given in the statement.

"(5) The uniform fee for filing, indexing and furnishing filing data for an original or a continuation statement shall be $4 (four dollars).

"Section 9-404. Termination Statement.

"(1) Whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must on written demand by the debtor send the debtor a statement that he no longer claims

a security interest under the financing statement, which shall be identified by file number. A termination statement signed by a person other than the secured party of record must include or be accompanied by the assignment or a statement by the secured party of record that he has assigned the security interest to the signer of the termination statement. The uniform fee for filing and indexing such an assignment or statement thereof shall be $4 (four dollars). If the affected secured party fails to send such a termination statement within ten days after proper demand therefor he shall be liable to the debtor for $100 (one hundred dollars), and in addition for any loss caused to the debtor by such failure.

"(2) On presentation to the filing officer of such a termination statement he must note it in the index. The filing officer shall remove from the files, mark 'terminated' and send or deliver to the secured party the financing statement and any continuation statement, statement of assignment or statement of release pertaining thereto.

"(3) The uniform fee for filing and indexing a termination statement including sending or delivering the financing statement shall be $4 (four dollars).

"Section 9-405. Assignment of Security Interest; Duties of Filing Officer; Fees.

"(1) A financing statement may disclose an assignment of a security interest in the collateral described in the statement by indication in the statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. Either the original secured party or the assignee may sign this statement as the secured party. On presentation to the filing officer of such a financing statement the filing officer shall mark the same as provided in Section 9-403(4). The uniform fee for filing indexing and furnishing filing data for a financing statement so indicating an assignment shall be $4 (four dollars).

"(2) A secured party may assign of record all or a part of his rights under a financing statement by the filing of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark such separate statement with the date and hour of

the filing. He shall note the assignment on the index of the financing statement. The uniform fee for filing, indexing and furnishing filing data about such a separate statement of assignment shall be $4 (four dollars).

"(3) After the disclosure or filing of an assignment under this section, the assignee is the secured party of record.

"Section 9-406. Release of Collateral; Duties of Filing Officer; Fees.

"A secured party of record may by his signed statement release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. Upon presentation of such a statement to the filing officer he shall mark the statement with the hour and date of filing and shall note the same upon the margin of the index of the filing of the financing statement. The uniform fee for filing and noting such a statement of release shall be $4 (four dollars).

"Section 9-407. Information From Filing Officer.

"(1) If the person filing any financing statement, termination statement, statement of assignment, or statement of release, furnishes the filing officer a copy thereof, the filing officer shall upon request note upon the copy the file number and date and hour of the filing of the original and deliver or send the copy to such person.

"(2) Upon request of any person, the filing officer shall issue his certificate showing whether there is on file on the date and hour stated therein, any presently effective financing statement naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein. The uniform fee for such a certificate shall be $3 (three dollars) plus $.50 (fifty cents) for each financing statement and for each statement of assignment reported therein. Upon request the filing officer shall furnish a copy of any filed financing statement or statement of assignment for a uniform fee of $1 (one dollar) per page."

Section 2. This act shall become effective October 1, 1973.

Approved September 5, 1973.

Time: 6:00 P.M.

Act No. 866 H. 518—Mims, Downing Barkett

AN ACT

To amend further Sections 13 and 21 of Act No. 414, S. 261, Regular Session 1959 (Acts 1959, p. 1055), known as the Alabama Business Corporation Act, as heretofore amended, so as to increase the fees for filing certain statements of incorporation and amendments thereto.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 13 and 21 of Act No. 414, S. 261, Regular Session 1959 (Acts 1959, p. 1055), known as the Alabama Business Corporation Act are hereby amended to read as follows:

"Section 13. Statement to be filed with secretary of state by probate judge.—Within ten days after the filing of the certificate of incorporation in the office of the probate judge as provided, he shall cause to be filed in the office of the secretary of state a statement signed by the probate judge of the county in which the corporation was organized, giving the name of the corporation, the names of its incorporators, the date of its incorporation, the amount of its capital stock, and the amount thereof actually paid in, and the name of the county in which incorporated. And for filing such statement there shall be paid, in advance, to the probate judge, for the use of the state, a fee of $10 (ten dollars).

"Section 21. Fees upon filing amendment.—Upon the filing of an amendment to a certificate of incorporation to increase the capital stock of the corporation there shall be paid to the probate judge or the secretary of state as the case may be, the same fees for recording and examining as for an original incorporation and charter fee upon the proposed increase of capital stock and if such certificate is filed in a probate office, the probate judge shall within ten (10) days after the filing of the certificate cause to be filed in the office of the secretary of state a statement of like nature as that provided for in section 13 of this act. When all of the capital stock of said corporation is held by organizations operating under the lodge system or by the members thereof and the by-laws of such corporation forbid the issuing of stock to any persons or organizations other than those mentioned above and the sole business engaged in by such corporation is the erection and maintenance of a building as a meeting place of such organizations, such corporation shall be exempt from the payment of the fees provided in this section and a statement to this effect in the certificate filed in the probate office or the office of the secretary of state shall be authority to the probate judge or secretary of state to permit the filing of such certificate without the payment of such fees. Upon the filing of an amendment to the certificate of incorporation to increase or decrease the capital stock or to change the

name of the corporation in the office of the probate judge, the probate judge shall within (10) days after the filing of the certificate cause to be filed in the office of the secretary of state a statement of like nature as that provided for in section 13 of this act. And for filing such statement there shall be paid, in advance, to the probate judge, for the use of the state, a fee of $10 (ten dollars)."

Section 2. This act shall become effective October 1, 1973.

Approved September 5, 1973.

Time: 6:00 P.M.

Act No. 867 S. 694—King

AN ACT

To empower industrial development boards organized (under the provisions of Act No. 648 enacted at the 1949 Regular Session of the Legislature of Alabama, as amended) in any municipality located (in whole or in part) in any county having a population of 600,000 or more, according to the last or any subsequent Federal decennial census, to acquire (by construction or otherwise), enlarge, improve, replace, own, lease, dispose of and grant options for the purchase of facilities and properties (whether real or personal or both) designed or suitable for use both as data processing and computer centers and as national or regional headquarters for the business or businesses owning or operating such data processing centers.

Be It Enacted by the Legislature of Alabama:

Section 1. The Legislature hereby finds and declares that on account of the more diverse nature of businesses and industries desiring to locate facilities in the larger, more urban counties of the State, it is necessary and desirable that industrial development boards now or hereafter organized (under the provisions of Act No. 648 enacted at the 1949 Regular Session of the Legislature of Alabama, as amended) in municipalities in such larger, more urban counties have powers somewhat broader than those now provided for in the said Act No. 648, as amended.

Section 2. Any industrial development board now or hereafter organized, under the provisions of Act No. 648 enacted at the 1949 Regular Session of the Legislature of Alabama, as amended, in any municipality located (in whole or in part) in any county having a population of 600,000 or more, according to the last or any subsequent federal decennial census, shall, in addition to the power to acquire, enlarge, improve, replace, own, lease, dispose of and grant options for the purchase of "projects" as defined in said Act No. 648, as amended as aforesaid, and in addition to all other powers now or hereafter vested therein,

have the power to acquire (by construction or otherwise), enlarge, improve, replace, own, lease, dispose of and grant options for the purchase of any facilities and properties (whether real or personal or both) designed or suitable for use both as a data processing and computer center and as a national or regional headquarters for the business or businesses owning or operating such data processing and computer center (irrespective of whether or not such combined facilities relate or are appurtenant to any industry for the manufacturing, processing or assembling of any agricultural, manufactured or mineral products, any commercial enterprise in storing, warehousing or distributing of any products of agriculture, mining or industry or any enterprise for the purpose of research in connection with any of the foregoing, the development of new products or new processes, the improvement of existing products or known processes or the development of facilities for the exploration of outer space or the promotion of national defense)—all to the end that such industrial development boards may be able to induce businesses (a) to relocate in this state data processing and computer centers now wholly or substantially located outside the State of Alabama, and (b) to locate entirely new or additional such centers in the State of Alabama.

Section 3. This act shall become effective upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 4:55 P.M.

Act No. 868 S. 704—Baker

AN ACT

Relating to DeKalb County; fixing the salaries of Judge of Probate Court, Circuit Clerk, Tax Assessor, Tax Collector and Judge of Inferior Court, and to provide payment of such salaries; and providing for a referendum thereon.

Be It Enacted by the Legislature of Alabama:

Section 1. The following officers of DeKalb County shall receive the following salaries:

Judge of Probate Court—$12,000 per annum

Circuit Clerk—$9,600 per annum

Tax Assessor—$9,600 per annum

Tax Collector—$9,600 per annum

Judge of Inferior Court—$8,400 per annum

Such salaries shall be in lieu of all other compensation heretofore provided by law, and shall be paid in equal monthly installments out of the general fund of the county.

Section 2. The provisions of this act shall become operative only if approved by a majority of the electors of DeKalb County who vote thereon in a referendum to be held on the same day on which the special election is held on constitutional amendments proposed by the 1973 Session of the Legislature. The governing body of DeKalb County shall order and provide for the holding of the referendum on such date. On the ballots to be used at the election the question shall be stated substantially as follows: "Shall the provisions of Act No. _____ of the 1973 Regular Session of the Legislature, approved the _____ day of _____, 1973, which fixes the salaries of the following officers of DeKalb County: Judge of Probate Court, Circuit Clerk, Tax Assessor, Tax Collector and Judge of Inferior Court, be adopted Yes (), No ()." If a majority of the votes cast in the election are "Yes," then the provisions of this act shall become operative on October 1, 1974. If the majority are "No" this act shall have no further effect. The results of the election shall be certified by the probate judge to the Secretary of State, who shall make a permanent record thereof.

Section 3. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this act are repealed.

Approved September 5, 1973.

Time: 4:55 P.M.

Act No. 869 S. 804—Shelby

AN ACT

To require the county commission or like governing body of Tuscaloosa County to call an election to determine the sentiment of the voters of the county: (1) relative to levying additional ad valorem tax for developing parks and multi-recreation areas or facilities, as authorized by the amendment to the Constitution of 1901 proposed by an Act of the 1973 Regular Session, and (2) relative to the incurring of a debt and the issuance of bonds as authorized in such amendment.

Be It Enacted by the Legislature of Alabama:

Section 1. The county commission or like governing body of Tuscaloosa County shall order an election to be held in such county within one year from the effective date of this Act for the purpose of determining whether or not a special tax shall be levied in such county for the development of parks and multi-recreation areas and facilities in such county and also for the purpose of determining whether or not money shall be borrowed, bonds shall be issued and the proceeds of the tax shall be pledged to the payment thereof for such purposes.

Section 2. Notice of the election shall be published in some newspaper within the county, which publication shall show the rate of the proposed tax, the time it is proposed to be continued and the purpose for which the levy is proposed to be made. This notice shall also state the principal amount of the bonds it is proposed to issue.

Section 3. The inspectors and officers of the election shall be appointed and the election shall be held and the result of the election shall be declared in the same manner and by the same officers as is the result of the regular election for county officers under the general laws of the state.

Section 4. All persons who are at the time of the election qualified electors in Tuscaloosa County shall be qualified electors to participate in the election.

Section 5. The county commission or like governing body of Tuscaloosa County shall provide a sufficient number of ballots or voting machines for each voting precinct within said county. Each ballot shall show the rate of the proposed tax, the time it is to be continued, and an itemization of the purpose or purposes for which the tax is levied, and shall provide for a vote "for the proposed taxation," and a place for a vote "against proposed taxation." The ballot shall also contain the question "Do you favor the issuance of bonds for the above-mentioned purposes in the principal amount of _____ dollars?" It shall also contain a place for a vote for and vote against such bond issue.

Section 6. The officers, including the sheriff, shall perform the same duties, and receive the same pay as provided for under the general election laws aforesaid, and all costs and fees of said election shall be paid out of the county treasury of Tuscaloosa County.

Section 7. If a majority of the qualified electors voting at such election vote for the proposed taxation and for the proposed bond issue, the county commission or like governing body of Tuscaloosa County shall levy said special tax and cause the tax assessor to assess the same on the taxable property in Tuscaloosa County, and shall provide for the issuance and sale

of such bond in the manner precribed by law for the issuance and sale of other county bonds.

Section 8. The tax collector of Tuscaloosa County shall collect such special tax in the same manner and under the same requirements and laws as taxes of the state are collected, and shall keep said amount separate and apart from all other funds and keep a clear and distinct account thereof. The county governing body may turn the proceeds of such tax over to any park and recreation authority heretofore established and existing pursuant to general law in Tuscaloosa County to be used for the purposes for which the tax was levied.

Section 9. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 10. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 11. The provisions of this Act shall become effective upon the ratification of an amendment to the Constitution of Alabama of 1901, proposed by an Act of the 1973 Regular Session, authorizing a special ad valorem tax and the issuance of bonds for park and recreational purposes in Tuscaloosa County.

Approved September 5, 1973.

Time: 4:55 P.M.

Act No. 870 S. 807—Littleton

AN ACT

To amend Section 1 of Act No. 37, H. 66 Organizational, Special and Regular Sessions 1971 (Acts 1971, p. 4170) as amended which applies in Shelby County, designating the number of employees authorized by the sheriff's department, compensation of such employees, and sheriff and residence requirements of such employees, and to repeal conflicting laws.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act No. 37, H. 66, Organizational Special and Regular Sessions 1971 (Acts 1971, p. 4170), as amended, be and the same is hereby deleted and there is substituted in lieu thereof, the following:

Section 1 (a) In lieu of any and all chief deputy sheriff, deputies sheriff, jailers or matrons heretofore authorized by law, the sheriff is hereby authorized to appoint not less than the following number of employees whose compensation shall be

paid from the county treasury each month in the amounts listed below.

Number of Employees Authorized	Rank	Compensation
1	Chief Deputy	Shall be comparable to a Captain in Alabama State Highway Patrol.
1	Lieutenant	Shall be comparable to a Lieutenant in Alabama Highway Patrol.
8	Deputies	Shall be comparable to State Trooper in Alabama State Highway Patrol.
4	Matrons	Shall be comparable to a Clerk Stenographer III in the Alabama Department of Public Safety.
3	Jailers	Shall be comparable to State Troopers in Alabama State Highway Patrol.
1	Chief Investigator	Shall be comparable to and not less than Alabama Highway Patrol Investigator Sergeant, and not more than Alabama State Highway Patrol Investigator Captain; between said limitations, the sheriff shall fix said employee's salary.
1	Sergeant	Shall be comparable to a Sergeant in State Trooper in Alabama State Highway Patrol.
4	Patrolmen	Shall be comparable to State Troopers in Alabama State Highway Patrol.

Said one Chief Investigator's and one Sergeant's and 4 Patrolmen's salaries and other remuneration or benefits to said officers may be funded under the Law Enforcement Assistance Act so long as such funds are available, and when not available, said officers shall be paid out of the General Fund of Shelby County or out of any other fund from which the Shelby County Commission elects to pay said officers.

(b) The Chief Deputy, Lieutenant, Chief Investigator, and Sergeant shall begin employment under the provisions of this act in a grade not greater than grade 4 corresponding to the rank listed opposite said position. All other personnel listed

shall begin employment under the provision of this Act in the grade corresponding with the number of years experience in law enforcement.

Section 2. All laws or parts of laws which conflict with this Act are repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 4:55 P.M.

Act No. 871 S. 809—Baker

AN ACT

To amend Section 1 of Act No. 1737, H. 2566, Regular Session 1971 (Acts 1971, p. 2902), entitled: "An Act to alter or re-arrange the boundary lines of the Town of Fyffe, DeKalb County, Alabama, so as to include within the corporate limits of said town all lands lying within the lands hereinafter described," so as to correct certain discrepancies in the description of the boundary lines.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act No. 1737, H. 2566, Regular Session 1971 (Acts 1971, p. 2902), entitled "An Act to alter or re-arrange the boundary lines of the Town of Fyffe, DeKalb County, Alabama, so as to include within the corporate limits of said town all lands lying within the lands hereinafter described," is amended to read:

"Section 1. That the boundary lines of the Town of Fyffe, DeKalb County, Alabama, be, and the same are hereby altered or re-arranged so as to include within the corporate limits of said town all territory lying within the following described lands, lying in DeKalb County, Alabama, to-wit:

South half and Northwest fourth and Northwest fourth of Northeast fourth of Section 10; and

Southeast fourth of Southwest fourth and Northwest fourth and Northwest fourth of Northeast fourth of Section 3; and

Northeast fourth of Northeast fourth of Section 15; and

West half of Northwest fourth and Southeast fourth of Northwest fourth and North half of Southeast fourth of Section 14; and

All of Section 4; and

East half of Southeast fourth and Northwest fourth of Northwest fourth of Section 9; and

Northeast fourth of Northeast fourth of Section 5; and

East half of Northeast fourth and Southwest fourth of Northeast fourth and Southeast fourth of Northwest fourth and East half of Southeast fourth and Southwest fourth of Southeast fourth of Section 8; and

West half of Northeast fourth and Southeast fourth of Northwest fourth and North half of Southwest fourth of Section 17; and

Southeast fourth of Southeast fourth of Section 18; and

All in Township 7, South of Range 7 East;

Also, East half of Southeast fourth of Section 33; and

Northeast fourth of Southwest fourth and Northwest fourth of Southeast fourth and South half of Southwest fourth and South half of Southeast fourth of Section 32; and

All in Township 6, South of Range 7 East."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 4:55 P.M.

Act No. 872 S. 810—Shelby

AN ACT

To amend Section 8 of Act No. 1286, H. 1694, Regular Session 1971, approved September 17, 1971, which Act established a Public Defender Office in all counties having a population of not less than 110,000 nor more than 150,000, by increasing the maximum annual compensation allowed to secretarial, stenographic and clerical assistants and providing for the positions of Investigators for the Public Defender Office and setting the maximum annual compensation therefor.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 8 of Act No. 1286, H. 1694, Regular Session 1971, approved September 17, 1971, is hereby amended to read as follows:

"Section 8. Within the limits of this act and subject to the approval of the Public Defender Commission, the Public Defender may appoint personnel as stated below and fix their compensation. Each shall serve at the pleasure of the Public Defender and be compensated as follows.

"(a) An Assistant Public Defender shall serve full time and shall be paid at an annual rate not exceeding FOURTEEN THOUSAND FIVE HUNDRED ($14,500.00) DOLLARS payable in equal monthly installments by said respective county, from the Public Defender Fund. Provided however, that no person shall be appointed to the position of Assistant Public Defender, until the need for the same shall be determined by the Commission and authorized by the Commission.

"(b) Such secretarial, stenographic, and clerical assistants as deemed necessary, each to be compensated at a rate not exceeding EIGHT THOUSAND TWO HUNDRED ($8,200.00) DOLLARS annually and shall be paid in equal monthly installments by said respective county from the Public Defender Fund.

"(c) One or more investigators or other legal assistants to serve full time and each to be paid at an annual rate not exceeding EIGHT THOUSAND TWO HUNDRED ($8,200.00) DOLLARS payable in equal monthly installments by said respective county, from the Public Defender Fund. Provided however, that no person shall be appointed to the position of investigator or legal assistant until the need for the same shall be determined by the Commission and authorized by the Commission.

"(d) The provisions of any existing merit system or civil service law shall not be applicable to such personnel, so appointed, and the provisions of any law, local or general, in conflict with any of the provisions of this section are repealed."

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 4:55 P.M.

Act No. 873 S. 812—Shelby

AN ACT

Relating to Tuscaloosa County; to increase the number of appointed members of the Tuscaloosa City Board of Education from five to seven.

Be It Enacted by the Legislature of Alabama:

Section 1. The number of appointed members of the Tuscaloosa City Board of Education is hereby increased from five to seven. The additional two members herein provided shall have the same tenure, appointment, duties, and shall be subject to all provisions for members of municipal boards of education as is provided in Title 52, Sections 151 and 152, Code of Alabama 1940, as amended.

Section 2. All laws or parts of laws which conflict with this act are repealed.

Section 3. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 4:55 P.M.

Act No. 874 S. 816—Melton

AN ACT

Applicable to Conecuh County; to provide that no claim presented to the Conecuh County Commission need be sworn to and that no testimony need be presented as to whether any part of such claim having been previously paid.

Be It Enacted by the Legislature of Alabama:

Section 1. No claim presented to the Conecuh County Commission under Code of Alabama 1940, Title 12, Section 110 or Title 12, Section 111, need be sworn to and no testimony need be presented as to whether any part of such claim has been previously paid as is required by Code of Alabama 1940, Title 12, Section 115, however, all such claims must be accurately and fully itemized.

Section 2. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 4:55 P.M.

Act No. 875 S. 822—O'Bannon

AN ACT

Relating to all counties having populations of not less than 16,350 nor more than 16,650, providing an allowance for secretarial assistance for the register in equity under certain conditions.

Be It Enacted by the Legislature of Alabama:

Section 1. In all counties having populations of not less than 16,350 nor more than 16,650, according to the most recent federal decennial census, the register in equity shall be entitled to an allowance of seventy-five dollars ($75) per month for secretarial assistance to be paid out of the general funds of the county. Provided, however, if one and the same person holds the office of both circuit clerk and register in any such county, this act shall not apply.

Section 2. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 4:55 P.M.

Act No. 876 S. 830—Malone

AN ACT

To amend Act No. 61, S. 151, Regular Session 1971 (Acts 1971, p. 324), which act creates the Etowah County Solid Waste and Park and Recreation Authority, so as to remove the state senator from Etowah County from membership of such Authority at the end of current term of office of said senator.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act No. 61, S. 151, Regular Session 1971 (Acts 1971, p. 324) is hereby amended to read as follows:

"Section 1. There is hereby created and established the Etowah County Solid Waste and Park and Recreation Authority, which shall be composed of the chairman of the Etowah County Commission or other like governing body, the Etowah County Health Officer, or his administrative assistant, and the state

Senator from Etowah County, **provided that at the end of the present term of office of the state Senator from Etowah County said Senator shall cease to be a member of such Authority and shall be relieved of all duties thereto; provided further that the remaining members of the Authority shall select another member to replace the said state Senator upon the expiration of his term of office, and shall make said election every four (4) years thereafter.** The members of said Authority shall serve without compensation except that they shall be reimbursed for actual expenses incurred in the performance of their duties."

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 4:55 P.M.

Act No. 877 H. 1952—Lutz, Grainger, Hearn, King, Hale

AN ACT

To repeal Act No. 1328, H. 2116, Regular Session 1971, (Acts 1971, p. 2278), entitled, "An Act To prescribe the maximum amount of compensation allowable to members of jury commissions in all counties having populations of not less than 175,000 nor more than 300,000 according to the last federal decennial census."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1328, H. 2116, Regular Session 1971 (Acts 1971, p. 2278), entitled, "An Act To prescribe the maximum amount of compensation allowable to members of jury commissions in all counties having populations of not less than 175,000 nor more than 300,000 according to the last federal decennial census," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:30 P.M.

Act No. 878 H. 1953—Lutz, King, Hearn, Grainger, Hale

AN ACT

To repeal Act No. 1509, S. 1025, Regular Session 1971, (Acts 1971, p. 2594), entitled, "An Act To prescribe the maximum amount of compensation allowable to members of jury commissions in all counties

having populations of not less than 175,000 nor more than 300,000 according to the last federal decennial census."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1509, S. 1025, Regular Session 1971, (Acts 1971, p. 2594), entitled, "An Act To prescribe the maximum amount of compensation allowable to members of jury commissions in all counties having populations of not less than 175,000 nor more than 300,000 according to the last federal decennial census," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:35 P.M.

Act No. 879 H. 1954—Lutz, King, Grainger, Hearn

AN ACT

Relating to Madison County; prescribing the maximum amount of compensation allowable to members of jury commissions.

Be It Enacted by the Legislature of Alabama:

Section 1. In Madison County members of the jury commissions shall each be paid the sum of fifteen ($15.00) dollars per day for the time actually engaged in the discharge of his duties as such member, to be paid out of the county treasury upon the warrant of the probate judge of the county. Such warrant shall be issued by the probate judge upon evidence satisfactory to him that such service has been rendered; but the maximum amount payable to each member shall not exceed one thousand three hundred fifty ($1,350.00) dollars per annum.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:35 P.M.

Act No. 880 H. 1955—Lutz, Hale, Grainger, King, Hearn

AN ACT

To repeal Act No. 232, H. 253, Third Special Session 1971, (Acts 1971,

p. 4501), entitled, "An Act Relating to Solicitor's or District Attorney's funds in judicial circuits consisting of one county and one county having not less than 175,000 nor more than 300,000 according to the most recent federal decennial census."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 232, H. 253, Third Special Session 1971, (Acts 1971, p. 4501), entitled, "An Act Relating to Solicitor's or District Attorney's funds in judicial circuits consisting of one county and one county having not less than 175,000 nor more than 300,000 according to the most recent federal decennial census," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:35 P.M.

Act No. 881 H. 1957—Lutz, Grainger, Hearn, Hale, King

AN ACT

To repeal Act No. 2314, S. 1086, Regular Session 1971, (Acts 1971, p. 3737), entitled, "An Act To regulate further the fees and costs which registers are entitled to in cases wherein divorce, alimony, maintenance or support is sought in the circuit court in all counties having a population of not less than 175,000 nor more than 300,000 inhabitants, according to the last federal decennial census."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 2314, S. 1086, Regular Session 1971, (Acts 1971, p. 3737), entitled, "An Act To regulate further the fees and costs which registers are entitled to in cases wherein divorce, alimony, maintenance or support is sought in the circuit court in all counties having a population of not less than 175,000 nor more than 300,000 inhabitants, according to the last federal decennial census," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:35 P.M.

Act No. 882 H. 1958—Lutz, Hearn, Grainger, Hale, King

AN ACT

Relating to Madison County; regulating further the fees and costs which registers are entitled to in cases wherein divorce, alimony, maintenance or support is sought in the circuit court.

Be It Enacted by the Legislature of Alabama:

Section 1. In Madison County the register of the circuit court shall be entitled to the following fees in addition to the fees now provided by law for the following services in such cases, to-wit: where divorce, alimony, maintenance or support is sought, for receiving, keeping, paying out or disbursing or distributing money paid in installments for alimony or for maintenance or support of hubsand, wife, child or children, person or persons, five per cent on all installments not exceeding one hundred dollars, and one and one-half per cent on the amounts of installments in excess of one hundred dollars.

Section 2. All fees collected under the provisions of this Act shall be paid by the Register of the Circuit Court involved into the county treasury.

Section 3. All laws or parts of laws which conflict with this Act are repealed.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:35 P.M.

Act No. 883 H. 1959—Lutz, King, Hearn, Grainger, Hale

AN ACT

To repeal Act No. 896, H. 1594, Regular Session 1971, (Acts 1971, p. 1660), entitled, "An Act Authorizing any municipality having a population of not less than 135,000 nor more than 185,000 according to the most recent federal decennial census to create a planning commission having certain powers, duties and regulations."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 896, H. 1594, Regular Session 1971, (Acts 1971, p. 1660), entitled, "An Act Authorizing any municipality having a population of not less than 135,000 nor more than 185,000 according to the most recent federal decennial census to create a planning commission having certain powers, duties and regulations," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:35 P.M.

Act No. 884 H. 1960—Lutz, Hearn, King, Hale, Grainger

AN ACT

To repeal Act No. 1306, H. 2094, Regular Session 1971, (Acts 1971, p. 2251), entitled, "An Act Authorizing any municipality having a population of not less than 135,000 nor more than 185,000 according to the 1970 or any subsequent federal decennial census, to create a Planning Commission having certain powers, duties and regulations."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1306, H. 2094, Regular Session 1971, (Acts 1971, p. 2251), entitled, "An Act Authorizing any municipality having a population of not less than 135,000 nor more than 185,000 according to the 1970 or any subsequent federal decennial census, to create a Planning Commission having certain powers, duties and regulations," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:35 P.M.

Act No. 885 H. 1961—Lutz, King, Grainger, Hearn, Hale

AN ACT

Relating to the municipality of Huntsville in Madison County; authorizing the municipality to create a planning commission having certain powers, duties and regulations.

Be It Enacted by the Legislature of Alabama:

Section 1. In the municipality of Huntsville in Madison County, the planning commission created pursuant to the provisions of Title 37, Section 788 Code of Alabama, as amended, shall consist of twelve members, namely the mayor, or, at the discretion of the mayor, in his stead his administrative assistant,

one of the administrative officials of the municipality selected by the mayor, and a member of the council to be selected by it as members ex officio, and nine persons appointed by the mayor.

Section 2. The adoption of any plan or amendment by the commission shall be by resolution of the commission pursuant to the provisions of Code Title 37, Section 793 as amended, and shall be carried by the affirmative votes of not less than six members of the commission.

Section 3. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this Act are repealed.

Section 5. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:40 P.M.

Act No. 886 H. 1962—Lutz, Hale, King, Hearn, Grainger

AN ACT

To repeal Act No. 1331, H. B. 2119, Regular Session 1971, (Acts 1971, p. 2280), entitled "An Act To apply only in counties having populations of not less than 175,000 nor more than 300,000 according to the then next preceding federal census; authorizing the court of county commissioners, board of revenue or other like county governing body to appropriate public funds of the county for payment of certain equitable and just claims for which the county is not legally liable."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1331, H. B. 2119, Regular Session 1971, (Acts 1971, p. 2280), entitled, "An Act To apply only in counties having populations of not less than 175,000 nor more than 300,000 according to the then next preceding federal census; authorizing the court of county commissioners, board of revenue or other like county governing body to appropriate public funds of the county for payment of certain equitable and just claims for which the county is not legally liable," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:40 P.M.

Act No. 887 H. 1963—Lutz, Grainger, King, Hearn, Hale

AN ACT

To repeal Act No. 1477, S. B. 1013, Regular Session 1971, (Acts 1971, p. 2534), entitled, "An Act To apply only in counties having populations of not less than 175,000 nor more than 300,000 according to the then next preceding federal census; authorizing the court of county commissioners, board of revenue or other like county governing body to appropriate public funds of the county for payment of certain equitable and just claims for which the county is not legally liable."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1477, S. 1013, Regular Session 1971, (Acts 1971, p. 2534), entitled, "An Act To apply only in counties having populations of not less than 175,000 nor more than 300,000 according to the then next preceding federal census; authorizing the court of county commissioners, board of revenue or other like county governing body to appropriate public funds of the county for payment of certain equitable and just claims for which the county is not legally liable," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:40 P.M.

Act No. 888 H. 1964—Lutz, King, Hale, Grainger, Hearn

AN ACT

Relating to Madison County; authorizing the court of county commissioners, board of revenue or other like governing body to appropriate public funds of the county for payment of certain equitable and just claims for which the county is not legally liable.

Be It Enacted by the Legislature of Alabama:

Section 1. The Madison County court of county commissioners, board of revenue or like governing body may in its discretion appropriate annually from the public funds of the county an amount not exceeding $5,000.00 as a contingent fund

from which shall be paid any entertainment, or promotional expense incurred for and incidental to the promotion of the economic, industrial or cultural development of the county and from which shall be paid any other equitable and just claim or claims against the county for which the county is not legally liable, and for recovery of which the claimant or claimants have no recourse at law. Any appropriation so made shall be paid by the county treasurer or depository on warrants drawn in such manner as the county governing body may direct. Any unexpended or unencumbered balance in any such contingent fund created under this Act shall revert to the county general fund at the end of such fiscal year.

Section 2. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 3. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional such declaration shall not affect the part which remains.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:40 P.M.

Act No. 889 H. 1965—Lutz, Hearn, Grainger, King, Hale

AN ACT

To repeal Act No. 126, H. B. 393, Regular Session 1971, (Acts 1971, p. 404) entitled, "An Act To provide for appointment and compensation of a secretary for each judge of any circuit court in counties having a population of not less than 175,000 nor more than 300,000."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 126, H. B. 393, Regular Session 1971, (Acts 1971, p. 404), entitled, "An Act To provide for appointment and compensation of a secretary for each judge of any circuit court in counties having a population of not less than 175,000 nor more than 300,000," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:40 P.M.

Act No. 890 H. 1966—Lutz, Hale, King, Grainger, Hearn

AN ACT

Relating to Madison County; providing for appointment and compensation of a secretary for each judge of the circuit court.

Be It Enacted by the Legislature of Alabama:

Section 1. In Madison County each judge of the circuit court may appoint a qualified person to serve as secretary. The secretary shall serve at the pleasure of the judge making the appointment, and shall be paid a salary from the general fund of the county, upon certificates of such judge in an amount to be set by the county personnel board, if such exists, or otherwise by the county governing body.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:40 P.M.

Act No. 891 H. 1967—Lutz, Grainger, King, Hale, Hearn

AN ACT

To repeal Act No. 1450, S.B. 971, Regular Session 1971, (Acts 1971, p. 2478), entitled "An Act Relating to counties having a population of not less than 175,000 nor more than 300,000; and authorizing the Board of County Commissioners in such counties to establish legal names for all county roads, and to set speed limits on county roads, consistent with state policy."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1450, S.B. 971, Regular Session 1971, (Acts 1971, p. 2478), entitled "An Act Relating to counties having a population of not less than 175,000 nor more than 300,000; and authorizing the Board of County Commissioners in such counties to establish legal names for all county roads, and to set speed limits on county roads, consistent with state policy," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:40 P.M.

Act No. 892 H. 1968—Lutz, King, Hale, Hearn, Grainger

AN ACT

Relating to Madison County; authorizing the Board of County Commissioners to establish legal names for all county roads and to set speed limits on county roads, consistent with state policy.

Be It Enacted by the Legislature of Alabama:

Section 1. In Madison County, the Board of County Commissioners shall have the authority to designate legal names for all public roads, bridges and ferries located within the county which are built with or maintained by county funds, in whole or in part; and, in addition, shall have the authority to establish speed limits upon such roads, which shall be consistent with the speed limits established by the State of Alabama for vehicular travel upon state roads and highways.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:40 P.M.

Act No. 893 H. 1969—Lutz, Hale, King, Hearn, Grainger

AN ACT

To repeal Act No. 1392, H. 2307, Regular Session 1971, (Acts 1971, p. 2349), entitled, "An Act Creating and establishing a county-wide personnel system for all counties of the State of Alabama having a population of not less than 175,000 and not more than 300,000 people according to the last federal decennial census; providing for a personnel department to be composed of a personnel board and a personnel director; providing for the composition, powers, duties, functions and expenses of the board and for the selection and compensation of its members; providing for the selection, powers, duties and compensation of the personnel director; making it a misdemeanor to violate the provisions of the act; repealing all laws or parts of laws inconsistent with the provisions hereof."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1392, H. 2307, Regular Session 1971, (Acts 1971, p. 2349), entitled "An Act Creating and establishing a county-wide personnel system for all counties of the State of Alabama having a population of not less than 175,000 and not more than 300,000 people according to the last federal decennial census; providing for a personnel department to be composed of a personnel board and a personnel director; providing for the composition, powers, duties, functions and ex-

penses of the board and for the selection and compensation of its members; providing for the selection, powers, duties and compensation of the personnel director; making it a misdemeanor to violate the provisions of the act; repealing all laws or parts of laws inconsistent with the provisions hereof," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:40 P.M.

Act No. 894 H. 1970—Lutz, Grainger, King, Hearn, Hale

AN ACT

To repeal Act No. 1488, S. 1083, Regular Session 1971, (Acts 1971, p. 2553), entitled, "An Act Creating and establishing a county-wide personnel system for all counties of the State of Alabama having a population of not less than 175,000 and not more than 300,000 people according to the last federal decennial census; providing for a personnel department to be composed of a personnel board and a personnel director; providing for the composition, powers, duties, functions and expenses of the board and for the selection and compensation of its members; providing for the selection, powers, duties and compensation of the personnel director; making it a misdemeanor to violate the provisions of the act; repealing all laws or parts of laws inconsistent with the provisions hereof."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1488, S. 1083, Regular Session 1971, (Acts 1971, p. 2553), entitled, "An Act Creating and establishing a county-wide personnel system for all counties of the State of Alabama having a population of not less than 175,000 and not more than 300,000 people according to the last federal decennial census; providing for a personnel department to be composed of a personnel board and a personnel director; providing for the composition, powers, duties, functions and expenses of the board and for the selection and compensation of its members; providing for the selection, powers, duties and compensation of the personnel director; making it a misdemeanor to violate the provisions of the act; repealing all laws or parts of laws inconsistent with the provisions hereof," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:40 P.M.

Act No. 895 H. 1971—Lutz, King, Hearn, Hale, Grainger

AN ACT

To repeal Act No. 202, S. 133, Third Special Session 1971, (Acts 1971, p. 4468), entitled, "An Act To amend No. 1392, H. 2307, 1971 Regular Session, creating and establishing a county-wide personnel system for all counties of the State of Alabama having a population of not less than 175,000 and not more than 300,000 people according to the last federal decennial census; providing for a personnel department to be composed of a personnel board and a personnel director; providing for the compensation, powers, duties, functions and expenses of the board and for the selection and compensation of its members; providing for the composition, powers duties, functions and expenses of the director; making it a misdemeanor to violate the provisions of the Act; repealing all laws or parts of laws inconsistent with the provisions hereof."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 202, S. 133, Third Special Session 1971, (Acts 1971, p. 4468), entitled, "An Act to amend Act No. 1392, H. 2307, 1971 Regular Session, creating and establishing a county-wide personnel system for all counties of the State of Alabama having a population of not less than 175,000 and not more than 300,000 people according to the last federal decennial census; providing for a personnel department to be composed of a personnel board and a personnel director; providing for the composition, powers, duties, functions and expenses of the board and for the selection and compensation of its members; providing for the selection, powers, duties and compensation of the personnel director; making it a misdemeanor to violate the provisions of the Act; repealing all laws or parts of laws inconsistent with the provisions hereof," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:40 P.M.

Act No. 896 H. 1973—Lutz, Grainger, King, Hearn, Hale

AN ACT

To repeal Act No. 1391, H. 2306, Regular Session 1971, (Acts 1971, p. 2571), entitled "An Act Relating to the practice of barbering in all

counties having populations of not less than 175,000 nor more than 300,000, according to the most recent federal decennial census, and having county boards of barber examiners; providing further for the authority and duties of such boards with respect to the licensing of barbers, barbers' apprentices, barber shops, schools of barbering and owners and instructors thereof; providing for the appointment, terms and compensation of the members of such board; prescribing qualifications and fees of licensees of such boards; providing rules and regulations; and declaring that the public health requires the necessity of the enactment of such provisions of law."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1391, H. 2306, Regular Session 1971 (Acts 1971, p. 2571), entitled "An Act Relating to the practice of barbering in all counties having populations of not less than 175,000 nor more than 300,000, according to the most recent federal decennial census, and having county boards of barber examiners; providing further for the authority and duties of such boards with respect to the licensing of barbers, barbers' apprentices, barber shops, schools of barbering and owners and instructors thereof; providing for the appointment, terms and compensation of the members of such board; prescribing qualifications and fees of licensees of such boards; providing rules and regulations; and declaring that the public health requires the necessity of the enactment of such provisions of law," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:40 P.M.

Act No. 897 H. 1974—Lutz, Grainger, King, Hearn, Hale

AN ACT

To repeal Act No. 1329, H. 2117, Regular Session 1971, (Acts 1971, p. 2278), entitled, "An Act To provide further for the compensation of election officials in each county having a population of not less than 175,000 nor more than 300,000 according to the 1960 or any subsequent defederal decennial census."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1329, H. 2117, Regular Session 1971, (Acts 1971, p. 2278), entitled, "An Act To provide further for the compensation of election officials in each county having a population of not less than 175,000 nor more than 300,000

according to the 1960 or any subsequent federal decennial census," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:40 P.M.

Act No. 898 H. 1975—Lutz, King, Hearn, Hale, Grainger

AN ACT

To repeal Act No. 1478, S. 1015, Regular Session 1971, (Acts 1971, p. 2535), entitled, "An Act To provide further for the compensation of election officials in each county having a population of not less than 175,000 nor more than 300,000, according to the 1960 or any subsequent federal decennial census."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1478, S. 1015, Regular Session 1971, (Acts 1971, p. 2535, entitled, "An Act To provide further for the compensation of election officials in each county having a population of not less than 175,000 nor more than 300,000, according to the 1960 or any subsequent federal decennial census," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:40 P.M.

Act No. 899 H. 1976—Lutz, Hearn, Hale, Grainger, King

AN ACT

Relating to Madison County; providing further for the compensation of election officials.

Be It Enacted by the Legislature of Alabama:

Section 1. In Madison County the officers appointed to hold elections, upon proper proof of services rendered, shall each be entitled to four dollars ($4.00) a day in addition to all other compensation provided for by law. In case of a

municipal election or primary, the additional compensation shall be paid by the city or town holding the election or primary; in all other cases the additional compensation shall be paid by the county and no part thereof shall be paid or refunded by the state.

Section 2. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this Act are repealed.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:40 P.M.

Act No. 900 H. 1977—Lutz, Hale, Grainger, Hearn, King

AN ACT

To repeal Act No. 895, H. B. 1593, Regular Session 1971, (Acts 1971, p. 1659), entitled, "An Act To authorize the governing bodies of all municipalities having populations of not less than 135,000 nor more than 185,000, according to the most recent federal decennial census, by ordinance, to authorize any municipal waterworks utility board, created in any municipality by ordinance pursuant to Act No. 860, S. 408, Regular Session 1953, to make certain expenditures without the prior consent and approval of the governing body of any such municipalities."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 895, H.B. 1593, Regular Session 1971, (Acts 1971, p. 1659), entitled, "An Act To authorize the governing bodies of all municipalities having populations of not less than 135,000 nor more than 185,000, according to the most recent federal decennial census, by ordinance, to authorize any municipal waterworks utility board, created in any such municipality by ordinance pursuant to Act No. 860, S. 408, Regular Session 1953, to make certain expenditures without the prior consent and approval of the governing body of any such municipality," is hereby repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:40 P.M.

Act No. 901 H. 1978—Lutz, Grainger, King, Hearn, Hale

AN ACT

To repeal Act No. 1305, H.B. 2093, Regular Session 1971, (Acts 1971, p. 2350), entitled, "An Act To authorize the governing bodies of all municipalities having populations of not less than 135,000 nor more than 185,000, according to the 1970 or any subsequent Federal Decennial Census, by ordinance, to authorize any municipal gas utility board, created in any such municipality by ordinance pursuant to Act No. 861, S. 409, Regular Session, 1953, to make certain expenditures without prior consent and approval of the governing body of any of such municipalities."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1305, H. B. 2093, Regular Session 1971, (Act 1971, p. 2250), entitled, "An Act To authorize the governing bodies of all municipalities having populations of not less than 135,000 nor more than 185,000, according to the 1970 or any subsequent Federal Decennial Census, by ordinance, to authorize any municipal gas utility board, created in any such municipality by ordinance pursuant to Act No. 861, S. 409, Regular Session, 1953, to make certain expenditures without prior consent and approval of the governing body of any of such municipalities," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:40 P.M.

Act No. 902 H. 1979—Lutz, King, Hearn, Hale, Grainger

AN ACT

To repeal Act No. 238, H. B. 581, Regular Session 1961, (Acts 1961, V. 1, p. 268), entitled, "An Act To provide that the judges of probate of all counties having a population of not less than 110,000 nor more than 160,000 according to the last or any subsequent federal decennial census, shall not collect fees for: (1) filing a claim against an estate and giving a receipt therefor, (2) attesting a satisfaction of a mortgage or vendor's line, (3) approving, filing and recording an official bond, (4) filing and recording deeds or conveyances to the county, and (5) administering an affidavit."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 238, H. B. 581, Regular Session 1961, (Acts 1961, V. 1, p. 268), entitled, "An Act To provide that the judges of probate of all counties having a population of

not less than 110,000 nor more than 160,000 according to the last or any subsequent federal decennial census, shall not collect fees for: (1) filing a claim against an estate and giving a receipt therefor, (2) attesting a satisfaction of a mortgage or vendor's lien, (3) approving, filing and recording an official bond, (4) filing and recording deeds or conveyances to the county, and (5) administering an affidavit," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:00 P.M.

Act No. 903 H. 1980—Lutz, Hearn, Hale, Grainger, King

AN ACT

To repeal Act No. 1326, H. 2114, Regular Session 1971, (Acts 1971, p. 2275), entitled, "An Act Providing for the collection of a filing fee on instruments, documents and papers filed for record in the office of the Probate Judge of each county having a population of not less than 175,000 nor more than 300,000 according to the last or any subsequent federal decennial census; further providing that the governing body of such counties may impose an additional filing fee for the filing and recording of the enumerated instruments."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1326, H. 2114, Regular Session 1971, (Acts 1971, p. 2275), entitled, "An Act Providing for the collection of a filing fee on instruments, documents and papers filed for record in the office of the Probate Judge of each county having a population of not less than 175,000 nor more than 300,000 according to the last or any subsequent federal decennial census; further providing that the governing body of such counties may impose an additional filing fee for the filing and recording of the enumerated instruments," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:00 P.M.

Act No. 904 H. 1981—Lutz, Hale, Grainger, King, Hearn

AN ACT

To repeal Act No. 1901, S. B. 1018, Regular Session 1971 (Acts 1971, p. 3091), entitled, "An Act Providing for the collection and filing fee on instruments, documents and papers filed for record in the office of the Probate Judge of each county having a population of not less than 175,000 nor more than 300,000 according to the last or any subsequent federal decennial census; further providing that the governing body of such counties may impose an additional filing fee for the filing and recording of the enumerated instruments."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1901, S. B. 1018, Regular Session 1971 (Acts 1971, p. 3091), entitled, "An Act Providing for the collection of a filing fee on instruments, documents and papers filed for record in the office of the Probate Judge of each county having a population of not less than 175,000 nor more than 300,000 according to the last or any subsequent federal decennial census; further providing that the governing body of such counties may impose an additional filing fee for the filing and recording of the enumerated instruments," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:00 P.M.

Act No. 905 H. 1982—Lutz, Grainger, King, Hearn, Hale

AN ACT

Relating to Madison County; providing for the collection of a filing fee on instruments, documents and papers filed for records in the Probate Judge's office; and further providing that the county governing body may impose an additional filing fee for the filing and recording of the enumerated instruments.

Be It Enacted by the Legislature of Alabama:

Section 1. In Madison County the Probate Judge shall charge a fee of One Dollar ($1.00) for filing for record or for recording each and every instrument, paper, writing, document, or decree in his office, including but not limited to, each financing statement, deed, contract, mortgage of real or personal property, mechanic's lien, lis pendens, certificate of judgment, lease, assignment, bill of sale, restriction, deed of trust, affidavit, marriage license, official bond, bond of personal rep-

resentative such as executor or administrator, decree on lunacy inquisition, decree appointing guardians of minors or persons of unsound mind, decree appointing a guardian ad litem in any proceeding in the Probate Court, capias and certificate or charter to a private corporation.

Section 2. In addition to the fee to be collected by the Probate Judge as set forth in the preceding section of this Act, the County Commission, Board of Revenue, or like governing body of the county may impose an additional fee not to exceed Two Dollars ($2.00) for filing for record or for recording every contract, deed, real estate mortgage, plat, marriage license, official bond, bond of personal representative such as executor or an administrator, decree appointing guardians of minors or persons of unsound mind, or character to a private corporation. Under no circumstances may the total fee imposed hereunder exceed Three Dollars ($3.00).

Section 3. By the tenth (10th) of the month following collection all funds so collected shall be paid by the Probate Judge into the treasury of Madison county and kept in a fund to be designated the Mental Health Fund. Expenditures from said fund shall be for the benefit and furtherance of the mental health program in the county. The chairman of the County Commission, or like official, shall have the power to act for the county commission, board of revenue, or like governing body of the county in the withdrawal and payment of monies from the Mental Health Fund.

Section 4. This Act is cumulative. Nothing herein contained shall alter or change any existing law relating to charges and fees to be collected by the Probate Judge of Madison County.

Section 5. The provisions of this Act are severable. If any section or provision of this Act is declared to be unconstitutional or invalid such declaration will not affect the constitutionality or validity of the remaining portion of this Act.

Section 6. This Act shall become effective upon its passage upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:00 P.M.

Act No. 906 H. 1983—Lutz, King, Hearn, Hale, Grainger

AN ACT

To repeal Act No. 897, H. B. 1595, Regular Session 1971 (Acts 1971,

p. 1661), entitled, "An Act To authorize the governing bodies of all municipalities having populations of not less than 135,000 nor more than 185,000, according to the most recent federal decennial census, by ordinance, to authorize any municipal electric utility board, created in any such municipality by ordinance, pursuant to Code of Alabama 1940, Title 18, Chapter 4, to make certain expenditures without prior consent and approval of the governing body of any of such municipalities."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 897, H. B. 1595, Regular Session 1971 (Acts 1971, p. 1661), entitled, "An Act To authorize the governing bodies of all municipalities having populations of not less than 135,000 nor more than 185,000 according to the most recent federal decennial census, by ordinance, to authorize any municipal electric utility board, created in any such municipality by ordinance, pursuant to Code of Alabama 1940, Title 18, Chapter 4, to make certain expenditures without prior consent and approval of the governing body of any of such municipalities," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:00 P.M.

Act No. 907 H. 1984—Lutz, Hearn, Hale, Grainger, King

AN ACT

To repeal Act No. 43, H. 72, Second Special Session 1971, (Acts 1971, p. 4180), entitled, "An Act To provide that the city board of education in all municipalities having a population of not less than 70,000 nor more than 300,000 according to the 1970 or any subsequent federal decennial census, shall adopt written policies with regard to education; to provide for the manner in which such policies shall be adopted; to provide that such written policies shall be made available to all teachers employed by the board; and to provide that such written policies and written amendments thereto shall be filed with the city superintendent of education."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 43, H. 72, Second Special Session 1971, (Acts 1971, p. 4180), entitled, "An Act To provide that the city board of education in all municipalities having a population of not less than 70,000 nor more than 300,000 according to the 1970 or any subsequent federal decennial census, shall adopt written policies with regard to education; to provide for the manner in which such policies shall be adopted; to pro-

vide that such written policies shall be made available to all teachers employed by the board; and to provide that such written policies and written amendments thereto shall be filed with the city superintendent of education," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:00 P.M.

Act No. 908 H. 1985—Lutz, Hale, Grainger, King, Hearn

AN ACT

Relating to the City of Huntsville; providing that the city board of education shall adopt written policies with regard to education; providing the manner in which such policies shall be adopted; providing that such written policies shall be made available to all teachers employed by the board; and providing that such written policies and written amendments thereto shall be filed with the city superintendent of education.

Be It Enacted by the Legislature of Alabama:

Section 1. In the City of Huntsville the city board of education shall upon the written recommendation of the city superintendent of education, determine and establish a written educational policy for the city and shall prescribe rules and regulations for the conduct and management of schools. Before making his written recommendations to the city board, the city superintendent shall consult with his professional assistants, principals, teachers and the professional organization representing the majority of the certified employees.

The city board must, on or before October 1, 1973, establish such policies and adopt such rules and regulations and file them with the city superintendent of education by October 15, 1973. Such written policies, rules and regulations, so established, adopted, or promulgated shall be made available on or before November 15, 1973, to all teachers employed by the city board. Any subsequent amendment to such policies, rules and regulations shall be adopted in the same manner and subject to the same recommendations and shall be filed with the city superintendent and furnished to the teachers employed by the city board within ten days after adoption thereof.

Section 2. All laws or parts of laws which conflict with this Act are repealed.

Section 3. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:00 P.M.

Act No. 909 H. 1987—Lutz, King, Hearn, Hale, Grainger

AN ACT

To repeal Act No. 1448, S. B. 970, Regular Session 1971, (Acts 1971, p. 2471) entitled, "An Act To provide the Board of County Commissioners in any county having a population of not less than 175,000 nor more than 300,000, according to the most recent federal decennial census, may provide assistance in the maintenance, restoration, care, and protection of ancient cemeteries."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1448, S.B. 970, Regular Session 1971, (Acts 1971, p. 2471), entitled, "An Act To provide the Board of County Commissioners in any county having a population of not less than 175,000 nor more than 300,000 according to the most recent federal decennial census, may provide assistance in the maintenance, restoration, care, and protection of ancient cemeteries," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:00 P.M.

Act No. 910 H. 1988—Lutz, Hearn, Hale, Grainger, King

AN ACT

Relating to Madison County; providing authority for the Board of County Commissioners to provide assistance in the maintenance, restoration, care, and protection of ancient cemeteries.

Be It Enacted by the Legislature of Alabama:

Section 1. In Madison County, the Board of County Com-

missioners may, upon appropriate request, provide assistance in the maintenance, restoration, care, and protection of any ancient cemetery or burial ground, as herein defined, located within the geographical perimeters of such county, and may appropriate funds for that purpose.

As used herein, the term "ancient cemetery or burial ground" means any land or structure located in Madison County dedicated to and used for the interment of human remains, and which at the time Madison County assists in the maintenance, restoration, care and protection thereof has two or more graves therein which are at least one hundred years old.

Section 2. All laws or parts of laws which conflict with this Act are repealed.

Section 3. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:00 P.M.

Act No. 911 H. 1989—Lutz, Hale, Grainger, King, Hearn

AN ACT

To repeal Act No. 1334, H. 2123, Regular Session 1971 (Acts 1971, p. 2283), entitled "An Act Relating to counties having populations of not less than 175,000 nor more than 300,000, according to the most recent Federal decennial census; providing for the health and welfare of children; requiring the mandatory reporting by physicians, institutions, and others of injuries inflicted by other than accidental means, upon children under the age of sixteen years; physicians, institutions and others from liability, civil or criminal, that might otherwise be incurred or imposed for participation in such report; prescribing penalties for failure to report."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1334, H. 2123, Regular Session 1971 (Acts 1971, p. 2283), entitled "An Act Relating to counties having populations of not less than 175,000 nor more than 300,000, according to the most recent Federal decennial census; providing for the health and welfare of children; requiring the mandatory reporting by physicians, institutions, and others of injuries inflicted by other than accidental means, upon children under the age of sixteen years; physicians, institutions

and others from liability, civil or criminal, that might otherwise be incurred or imposed for participation in such report; prescribing penalties for failure to report," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:00 P.M.

Act No. 912 H. 1990—Lutz, Grainger, King, Hearn, Hale

AN ACT

To repeal Act No. 1474, S. 1010, Regular Session 1971 (Acts 1971, p. 2514), entitled "An Act Relating to counties having populations of not less than 175,000 nor more than 300,000 according to the most recent Federal decennial census; providing for the health and welfare of children; requiring the mandatory reporting by physicians, institutions, and others of injuries inflicted by other than accidental means, upon children under the age of sixteen years; physicians, institutions and others from any liability, civil or criminal, that might otherwise be incurred or imposed for participation in such report; prescribing penalties for failure to report."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1474, S. 1010, Regular Session 1971, (Acts 1971, p. 2514), entitled "An Act Relating to counties having populations of not less than 175,000 nor more than 300,000, according to the most recent Federal decennial census; providing for the health and welfare of children; requiring the mandatory reporting by physicians, institutions, and others of injuries inflicted by other than accidental means, upon children under the age of sixteen years; physicians, institutions and others from any liability, civil or criminal, that might otherwise be incurred or imposed for participation in such report; prescribing penalties for failure to report," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:00 P.M.

Act No. 913 H. 1992—Lutz, Hearn, Hale, King, Grainger

AN ACT

To repeal Act No. 2188, H. B. 2767, Regular Session 1971, (Acts 1971, p. 3502), entitled, "An Act To provide that Judges of Probate of all counties having a population of not less than 175,000 nor more than 300,000 according to the last or any subsequent federal decennial census shall collect certain fees for services rendered and that the fees so collected shall be used to provide workmens' compensation benefits for all employees of such counties.

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 2188, H. B. 2767, Regular Session 1971, (Acts 1971, p. 3502), entitled, "An Act To provide that Judges of Probate of all counties having a population of not less than 175,000 nor more than 300,000 according to the last or any subsequent federal decennial census shall collect certain fees for services rendered and that the fees so collected shall be used to provide workmens compensation benefits for all employees of such counties," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:00 P.M.

Act No. 914 H. 1993—Lutz, Hale, Grainger, King, Hearn

AN ACT

To repeal Act No. 2283, S. B. 1221, Regular Session 1971, (Acts 1971, p. 3684), entitled "An Act To provide that Judges of Probate of all counties having a population of not less than 175,000 nor more than 300,000 according to the last or any subsequent federal decennial census shall collect certain fees for services rendered and that the fees so collected shall be used to provide workmen's compensation benefits for all employees of such counties.

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 2283, S. B. 1221, Regular Session 1971, (Acts 1971, p. 3684), entitled, "An Act To provide that Judges of Probate of all counties having a population of not less than 175,000 nor more than 300,000 according to the last or any subsequent federal decennial census shall collect certain fees for services rendered and that the fees so collected shall be used to provide workmens' compensation benefits for all employees of such counties," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:00 P.M.

Act No. 915 H. 1994—Lutz, Grainger, King, Hearn, Hale

AN ACT

Relating to Madison County; providing that the Judge of Probate shall collect certain fees for services rendered and that the fees so collected shall be used to provide workmens' compensation benefits for all employees of the county.

Be It Enacted by the Legislature of Alabama:

Section 1. In Madison County the Judge of Probate shall charge and collect fees for the following services as hereinafter provided:

(a) Issuing commissions to Notaries Public — $10.00;

(b) Issuing and recording marriage licenses together with consent to the marriage and certificate of its celebration and taking and recording bond — $5.00;

(c) Celebrating rites of matrimony — $5.00;

(d) Services rendered in legitimatizing children under the provisions of the Code of Alabama — $10.00;

(e) Services rendered in adopting children under the provisions of the Code of Alabama — $25.00;

(f) Granting Letters Testamentary or of Administration — $5.00;

(g) Granting Letters of Guardianship for each minor— $5.00;

(h) Examining, stating and passing the accounts of executors, administrators and guardians for final or partial settlement and appointing a day for hearing — $5.00;

((i) For redemption of land from tax sales where land has been sold to one other than the State of Alabama — $20.00;

(j) For services rendered in changing a name — $10.00.

Section 2. All sums collected under the provisions of this Act shall be used to provide workmens compensation benefits

for employees of the county. The County Commissioners or other like governing body of the county are authorized to use such funds for the procurement of workmens compensation insurance for the county employees. Any sums received under the provisions of this Act in excess of what is required to provide such workmens compensation benefits and insurance shall be paid over into the general fund of the county at the end of each calendar year.

Section 3. The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this Act are repealed.

Section 5. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:00 P.M.

Act No. 916 H. 1995—Lutz, Hale, Grainger, King, Hearn

AN ACT

To repeal Act No. 145, H. 131, First Special Session 1971 (Acts 1971, p. 231), entitled, "An Act To provide for the election of a seven member City Board of Education for any city having a population of not less than 135,000 nor more than 180,000 according to the most recent federal decennial census; and to provide for the terms of its members."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 145, H. 131, First Special Session 1971 (Acts 1971, p. 231), entitled "An Act To provide for the election of a seven member City Board of Education for any city having a population of not less than 135,000 nor more than 180,000 according to the most recent federal decennial census; and to provide for the terms of its members," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:00 P.M.

Act No. 917 H. 1996—Lutz, Hale, Grainger, King, Hearn

AN ACT

To repeal Act No. 2192, H. B. 2771, Regular Session 1971, (Acts 1971, p. 3507), entitled, "An Act To provide an expense allowance for the Judge of the County Court in all counties having populations of not less than 175,000 nor more than 300,000 according to the last and any subsequent federal decennial census and to provide for an effective date for the operation of such act."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 2192, H. B. 2771, Regular Session 1971, (Acts 1971, p. 3507), entitled, "An Act To provide an expense allowance for the Judge of the County Court in all counties having populations of not less than 175,000 nor more than 300,000 according to the last and any subsequent federal decennial census and to provide for an effective date for the operation of such act," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:00 P.M.

Act No. 918 H. 1997—Lutz, Hale, Grainger, King, Hearn

AN ACT

Relating to Madison County; providing an expense allowance for the Judge of the County Court and providing for an effective date for the operation of this Act.

Be It Enacted by the Legislature of Alabama:

Section 1. In Madison County the Judges of the County Court shall be entitled to receive an allowance for expenses in the amount of $3,000.00 per annum, which expense allowance shall be payable in equal monthly installments at the end of each month from the general funds of the county.

Section 2. All laws or parts of laws which conflict with this Act are repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:00 P.M.

Act No. 919 H. 1998—Lutz, Hale, Grainger, King, Hearn

AN ACT

To repeal Act No. 233, H. B. 254, Third Special Session 1971, (Acts 1971, p. 4503), entitled, "An Act To apply only in counties having a population not less than 175,000 nor more than 300,000 according to the most recent federal decennial census; fixing and providing for a uniform and clothing allowance for deputies and members of the sheriff's force of such counties."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 233, H. B. 254, Third Special Session, 1971, (Acts 1971, p. 4503), entitled, "An Act To apply only in counties having a population not less than 175,000 nor more than 300,000 according to the most recent federal decennial census; fixing and providing for a uniform and clothing allowance for deputies and members of the sheriff's force of such counties," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:00 P.M.

Act No. 920 H. 1999—Lutz, Grainger, King, Hearn, Hale

AN ACT

Relating to Madison County; fixing and providing for a uniform and clothing allowance for deputies and members of the Sheriff's force.

Be It Enacted by the Legislature of Alabama:

Section 1. In Madison County, the County Commission, Board of Revenue or like governing body shall have the authority, at its discretion, to appropriate and pay to the Sheriff of the county an annual amount not to exceed $200.00 per deputy sheriff or other member of the Sheriff's force, provided such deputy or other member of the Sheriff's force is regularly employed on a full time basis by the Sheriff of the county.

Section 2. The appropriation, when so paid to such sheriff, shall be used exclusively by the sheriff for clothing, apparel and uniform of the deputy sheriffs and other members of the sheriff's force who are employed by the sheriff on a full time basis.

Section 3. All similar or like appropriations paid and expended by such counties prior to the passage of this act are hereby validated.

Section 4. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. All laws or parts of law in conflict with this act are repealed.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:00 P.M.

Act No. 921 H. 2000—Lutz, Grainger, King, Hearn, Hale

AN ACT

To repeal Act No. 1387, H. 2302, Regular Session 1971 (Acts 1971, p. 2330), entitled "An Act To confer upon the district attorney and other district attorneys in all counties having a population of not less than 175,000 nor more than 300,000 inhabitants according to the last or any subsequent federal decennial census the power to take oaths in support of complaints and to issue warrants in all criminal cases in such counties."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1387, H. 2302, Regular Session 1971 (Acts 1971, p. 2330) entitled, "An Act To confer upon the district attorney and other district attorneys in all counties having a population of not less than 175,000 nor more than 300,000 inhabitants according to the last or any subsequent federal decennial census the power to take oaths in support of complaints and to issue warrants in all criminal cases in such counties," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:00 P.M.

Act No. 922 H. 2001—Lutz, Grainger, King, Hearn, Hale

AN ACT

To repeal Act No. 1491, S. 1087, Regular Session 1971 (Acts 1971, p. 2569), entitled "An Act To confer upon the district attorney and other district attorneys in all counties having a population of not less than 175,000 nor more than 300,000 inhabitants according to the last or any subsequent federal decennial census the power to take oaths in support of complaints and to issue warrants in all criminal cases in such counties."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1491, S. 1087, Regular Session 1971, (Acts 1971, p. 2569), entitled "An Act To confer upon the district attorney and other district attorneys in all counties having a population of not less than 175,000 nor more than 300,000 inhabitants according to the last or any subsequent federal decennial census the power to take oaths in support of complaints and to issue warrants in all criminal cases in such counties," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:00 P.M.

Act No. 923 H. 2002—Lutz, Grainger, King, Hearn, Hale

AN ACT

To repeal Act No. 1912, S. 1091, Regular Session 1971 (Acts 1971, p. 3102), entitled "An Act To regulate further the costs and fees in the county courts of all counties having populations of not less than 175,000 nor more than 300,000 according to the last or any subsequent federal census."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1912, S. 1091, Regular Session 1971, (Acts 1971, p. 3102), entitled "An Act To regulate further the costs and fees in the county courts of all counties having populations of not less than 175,000 nor more than 300,000 according to the last or any subsequent federal census," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:00 P.M.

Act No. 924 H. 2016—Lutz, Grainger, King, Hearn, Hale

AN ACT

To repeal Act No. 1701, H. B. 2498, Regular Session 1971 (Acts 1971, p. 2859), entitled "An Act To authorize counties having a population of not less than 175,000 nor more than 300,000 inhabitants according to the most recent federal decennial census; to require building permits for any structures erected in said county; to authorize and provide a means to implement the provisions of said Act; to authorize funds necessary to implement this procedure."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1701, H. B. 2498, Regular Session 1971 (Acts 1971, p. 2859), entitled "An Act To authorize counties having a population of not less than 175,000 nor more than 300,000 inhabitants according to the most recent federal decennial census; to require building permits for any structures erected in said county; to authorize and provide a means to implement the provisions of said act; to authorize funds necessary to implement this procedure," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:00 P.M.

Act No. 925 H. 2018—Lutz, Hale, Grainger, Hearn, King

AN ACT

To repeal Act No. 680, H. B. 954, Regular Session 1967, (Acts 1967, v. II, p. 1507), entitled, "An Act to fix the compensation of the judge of the county court in any county having a population of not less than 170,000 nor more than 300,000 according to the last or any succeeding federal census."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 680, H. B. 934, Regular Session 1967, (Acts 1967, v.II, p. 1507), entitled, "An Act To fix the compensation of the judge of the county court in any county having a population of not less than 170,000 nor more than 300,000 according to the last or any succeeding federal census," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:00 P.M.

Act No. 926 H. 2019—Lutz, Grainger, Hearn, King, Hale

AN ACT

Relating to Madison County; fixing the compensation of the judge of the county court.

Be It Enacted by the Legislature of Alabama:

Section 1. In Madison County, the judges of the county court shall receive a salary of $15,000 per annum, payable monthly out of the county treasury, upon warrants drawn upon the county treasurer or proper custodian of county funds.

Section 2. All laws or parts of laws which conflict with this Act are repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:00 P.M.

Act No. 927 H. 2020—Lutz, Hearn, Grainger, Hale, King

AN ACT

To repeal Act No. 24, H. 160, First Special Session 1964, (Acts 1964, p. 45), entitled, "An Act To apply in all counties having a population of not less than 110,000 nor more than 160,000 inhabitants, according to the last or any subsequent federal decennial census: To permit any bank having a combined capital and surplus of one hundred thousand dollars or more, and having an authorized office or place of business in any city or town in any such county, to establish, maintain, and operate additional offices or places of business in such county, upon obtaining the approval of the Superintendent of Banks."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 24, H. 160, First Special Session 1964, (Acts 1964, p. 45), entitled, "An Act To apply to all counties having a population of not less than 110,000 nor more than 160,000 inhabitants, according to the last or any subsequent federal decennial census: To permit any bank having a combined capital and surplus of one hundred thousand dollars or

more, and having an authorized office or place of business in any city or town in any such county, to establish, maintain, and operate additional offices or places of business in such county, upon obtaining the approval of the Superintendent of Banks," is hereby expressly repealed.

Section 2. This Act shall become effective one month imimmediately after its passage and approval by the Governor or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:00 P.M.

Act No. 928 H. 442—Stokes, Nettles, Downing, Callahan

AN ACT

To further amend Section 2 of Act No. 287, H. 193, First Special Session 1965 (Acts 1965, p. 395), which section relates to the compensation of members of the board of commissioners in cities having populations of not less than 175,000 nor more than 275,000 inhabitants, according to the last federal decennial census, so as to increase the compensation of said members.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 2 of Act No. 287, H. 193, First Special Session 1965 (Acts 1965, p. 395, is hereby further amended to read as follows:

"Section 2. Each member of the board of commissioners of such city shall receive $21,960.00 per annum. Provided, however, that during the term that the member serves as mayor he shall receive, in lieu of the above salary, the salary of $21,960.00 per annum. Such salaries shall be paid from the city treasury in equal semi-monthly installments."

Section 2. All laws or parts of laws which conflict with this act are repealed.

Section 3. The provisions of this act are severable. If upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 4:55 P.M.

Act No. 929 H. 635—Boles, Jones (E)

AN ACT

To amend Title 13, Section 199(2), Code of Alabama, 1940, (Re-

compiled 1958), as last amended, fixing the salary of a certain deputy circuit clerk of the tenth judicial circuit.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 199(2), Title 13, Code of Alabama, 1940, (Recompiled 1958), as last amended, fixing the salary of a certain deputy circuit clerk of the tenth judicial circuit, is hereby further amended to read as follows:

"Section 199(2). The salary of the deputy circuit clerk created under Title 13, Section 199 of the Code of Alabama 1940, for the division of the tenth judicial circuit described therein, is hereby fixed at Nineteen Thousand Two Hundred and Eighty-five Dollars ($19,285.00) per annum, payable in equal monthly installments. The salary provided for herein shall be the entire compensation of the deputy circuit clerk, in lieu of all other compensation.

The salary of said deputy circuit clerk now in effect shall remain the same until the expiration of the present term of office of such deputy circuit clerk and the salary provided in this section shall take effect at the beginning of the next term of office of such deputy circuit clerk.

Section 2. All laws or parts of laws in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 3. This act shall not become effective until the end of the present term and in no event prior to 1977.

Approved September 5, 1973.

Time: 5:00 P.M.

Act No. 930 H. 639—Jones (E), Boles, Doss, Waggoner, Dill, Timmons, Adwell, Falkenburg

AN ACT

To fix the compensation of the deputy probate judges of any branch office of the Probate Court in counties having a population of 600,000 or more according to the last or any subsequent census, and provide for payment thereof.

Be It Enacted by the Legislature of Alabama:

Section I: This act shall apply in all counties having a population of 600,000 or more, according to the last or any subsequent federal census.

Section II: That the deputy probate judges of counties having a population of 600,000 or more shall receive a salary of

$17,556.00 per annum, which salary shall be paid out of the County Treasury of said County in equal monthly installments.

Section III: That all laws and parts of laws in conflict with this act be and the same are hereby repealed.

Section IV: This act shall not become effective until the end of the present term and in no event prior to 1977.

Approved September 5, 1973.

Time: 5:00 P.M.

Act No. 931 H. 1049—Waggoner, Doss, Timmons, Adwell, Bowers, Meeks, Boutwell, Weeks, Ellis, Boles, Hughes, Wallace, Dill, McMillan, McBride, McNair, Falkenburg

AN ACT

To fix the compensation or salaries of Circuit Clerk in Counties of 600,000 inhabitants or more according to the last or any subsequent Federal Census.

Be It Enacted by the Legislature of Alabama:

Section 1. That the Circuit Clerk in all Counties of 600,000 inhabitants, or more, according to the last or any subsequent Federal Census, shall each be entitled to be paid out of the General Fund of such County, or Counties, the sum of $21,280.00 per annum, to be paid in equal monthly installments.

Section 2. This Act shall become effective upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:00 P.M.

Act No. 932 H. 1081—Timmons, Waggoner, Doss, Wallace, McMillan, Dill, Ellis, Adwell, Hughes, Boles, McNair, Weeks, Boutwell

AN ACT

To fix the compensation or salary of the Treasurer of all counties having a population of six hundred thousand (600,000) or more ac-

cording to the last or any subsequent Federal Census. To provide for the manner of payment thereof and to repeal all laws in conflict herewith.

Be It Enacted by the Legislature of Alabama:

Section 1. The salary of the Treasurer of all counties having a population of six hundred thousand or more according to the last or any subsequent federal census, is hereby fixed at Sixteen Thousand One Hundred Four Dollars ($16,104.00) per annum, payable in equal monthly installments or in such installments other than monthly as the county governing body may be authorized by law to establish. The salary provided for herein shall be the entire compensation of the treasurer, in lieu of all other compensation.

Section 2. The salary of said treasurer now in effect shall remain the same until the expiration of the present term of office of such treasurer and the salary provided in this act shall take effect at the beginning of the next term of office of such treasurer.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall become effective upon its approval by the Governor or upon its otherwise becoming law.

Approved September 5, 1973.

Time: 5:00 P.M.

Act No. 933 H. 1128— Perloff, Collins, Therrell, Downing, Roberts, Nettles, Gafford, Falkenburg, McNair, Dill, Timmons, Hughes, Doss, Weeks, Ellis, Waggoner, Boutwell, McBride, Meeks, Bowers, McMillan

AN ACT

To provide for official Secretary-Court Reporters in all Probate Courts in all counties of the State of Alabama having a population of not less than 300,000 inhabitants according to the then next preceding Federal census; to fix the duties and status and authority of

such Secretary-Court Reporters; and to provide for the appointment of such Secretary-Court Reporters by each Probate Judge in such counties and to provide for the compensation and salary of such Secretary-Court Reporters; and to abolish Bills of Exceptions in such courts, and to provide that the provisions of Act No. 461, H. 76, Regular Session 1943, (Acts 1943, p. 423) shall apply to and govern procedures in such courts.

Be It Enacted by the Legislature of Alabama:

Section 1. This Act shall apply in all counties in Alabama having a population of not less than 300,000 inhabitants according to the then next preceding Federal census, and especially in such counties: This Act is applicable in such counties, where the Probate Court has concurrent jurisdiction with the Circuit Court in the administration of estates, including trust estates. Each of the Judges of Probate of the Probate Court in such counties, where such court has concurrent jurisdiction with the Circuit Court in the administration of estates and trusts, shall have full authority to appoint a competent Secretary-Court Reporter to perform the duties of official Court Reporter of the court in such county over which said judge presides. Any person appointed officially or Special Court Reporter under the provisions of this Act shall be able to correctly report the proceedings in all trials as the same may occur and neatly and expeditiously transcribe on the typewriter, testimony taken by him (or her). Said official Court Reporter shall be an officer of the Court, and shall have power to administer oaths, and shall hold office and serve at the pleasure of the Judge appointing him, who shall have power to remove said official reporter at any time.

Section 2. In all cases reported by an official reporter or special reporter there shall be taxed as part of the costs of the case a fee of $10.00 for each day or fraction thereof that such reporter shall be engaged in reporting a case, to be collected as costs, and when collected, paid as costs into the county treasury of the county in which the case was tried.

Section 3. Such official Court Reporter herein provided for shall receive a salary to be fixed and allowed by the Director of Personnel of any civil service system in the event such county government has a Personnel Director of Civil Service, which salary or compensation shall be paid from the general funds of the county as other salaries of county employees are paid.

Section 4. Bills of Exceptions in the trial of cases in the Probate Courts of counties of 300,000 population and over, where Probate Courts have jurisdiction concurrent with that of the Circuit Court in the administration of estates and trusts,

where the Probate Court has such Secretary-Court Reporter and from which appeals may be taken directly to the Court of Appeals or to the Supreme Court of Alabama, in the State of Alabama, are hereby abolished. All of the provisions of Act No. 461, H. 761, Regular Session 1943 (Acts 1943, p. 423) shall apply to the Probate Courts in all such counties to which this Act applies.

Section 5. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 6. All laws or parts of laws which conflict with this Act are repealed.

Section 7. That this Act shall become effective upon its passage and approval by the Governor or its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:00 P.M.

Act No. 934 H. 1196—Robertson

AN ACT

TO ALTER OR REARRANGE THE BOUNDARY LINES OF THE CITY OF NORTHPORT, TUSCALOOSA COUNTY, ALABAMA, SO AS TO INCLUDE WITHIN THE CORPORATE LIMITS OF SAID CITY ALL TERRITORY NOW WITHIN SUCH CORPORATE LIMITS AND ALSO CERTAIN OTHER TERRITORY CONTIGUOUS THERETO, IN TUSCALOOSA COUNTY, ALABAMA.

Be It Enacted by the Legislature of Alabama:

Section 1. That the boundary lines of the City of Northport, Tuscaloosa County, Alabama, be, and the same are hereby altered or rearranged so as to include all of the territory heretofore encompassed by the corporate limits of the city of Northport; to ratify all past annexations since the last local annexation law, and in addition thereto the following described territory, to-wit:

TRACT 1:

A parcel of land located in W½ of SE¼ of SW¼ of Section 7, Township 21 S, Range 10 West, Tuscaloosa County, Alabama.

As a point of beginning start at intersection of East boundary of said W½ of SE¼ of SW¼ and North boundary of Right of Way of U.S. Highway 82 West, said point being 100 feet North of center line of Right of Way; thence Northwardly along East boundary of said W½ of SE¼ a distance of 728 feet, then with deflection angle of 90 degrees 00 minutes to left run Westerly direction a distance of 297.2 feet to point in center of old ditch; then Southwardly along the center line of meandering of said ditch to intersect with North boundary of Right-of-Way of U.S. 82 West; then Easterly along curving North boundary of Right-of way of U.S. Highway 82 West a chord distance of 242.2 feet to point of beginning.

TRACT 2:

All of the Northwest ¼ of the Southeast ¼ of Section 8, Township 21 South, Range 10 West, that lays south of U.S. Highway 82.

TRACT 3.

A 30 foot strip of land along the North line of the Northwest Quarter of Section 11, Township 21 South, Range 10 West.

TRACT 4.

Start at the NW corner of NW¼ of SW¼ Section 8, Township 21S, Range 10 W, as point of beginning marked as stone, being NW corner of tract herein described.

Then East 250 feet more or less to a point on West margin of Harper Road being NE corner of said lot, then SE direction along West margin of said road where intersects with N margin of Highway 82 West, then West for 535 feet more or less to a point on ¼ section line being SW corner of lot, then North along ¼ section line 1026.25 feet more or less to point of beginning.

TRACT 5:

Start at the NW corner of SW¼ of Section 8, Township 21 S, Range 10 West, Tuscaloosa County, Alabama, and run East along North line of Ida Bell's farm 1545 feet, then South 730 feet to South margin of U.S. Highway 82 West, which is the point of beginning of the property herein described; then deflect left 106 degrees 02 minutes and run 106

feet along South Right of Way to Station 75 + 00 of U.S. Highway 82 West, being a concrete marker, then left 90° 00 minutes and run a distance of 15 ft. to another concrete marker; then turn right 90 degrees 00 minutes and run for a distance of 104 feet along the R. O. W. being 100 feet South of the centerline of U. S. Highway 82 West; then turn right 105 degrees 32 minutes and run South for a distance of 747.2 feet; then turn right 73 degrees 57 minutes and run West 210 feet; then turn right 106 degrees 03 minutes and run North 731.5 feet to point of beginning. A total of 3.5 acres.

TRACT 6:

7.34 acres located in SW¼ of SW¼ of Section 9, Township 21S, Range 10 W. Begin at the SW corner of SE¼ of SW¼, then North along West line of said ¼ for 337.18 feet to point of beginning. Continue North along said line for 388.85 feet. Then turn a deflection angle of 87 degrees 01 minutes to left and run 829.6 feet to a point. Then turn a deflection angle of 94 degrees 50 minutes left and run 388.85 feet, then turn a deflection angle of 85 degrees 08 minutes left and run 815.8 feet to point of beginning.

TRACT 7:

Starting at the Northwest corner of the Northwest Quarter of the Southeast Quarter of Section 8, Township 21 South, Range 10 West, thence East along the Quarter Section line a distance of 72.9 feet to the centerline of Hargrove Creek which point is the point of beginning of property herein described; thence East along this same Quarter Section line a distance of 411.18 feet to the intersection of the North Right-of-way line of U. S. Highway 82 West which is a common point with the Southwest corner of Lot 12 of Proposed Harper Subdivision No. 5; then with a deflection angle to the left of 127 degrees 34 minutes, proceed along the West line of Lots 12, 11, and 10 a distance of 423 feet to Hargrove Creek; then Southerly along a meandering line (Hargrove Creek bank) a distance of approximately 390 feet to the point of beginning. A total of 1.60 acres.

TRACT 8:

One acre in the Southwest corner of S½ of S½ of Southeast ¼ of Southeast ¼ of Section 3, Township 21 South, Range 10 West.

TRACT 9:

Parcel I. The surface rights only in and to the following: The East half of the Southwest Quarter of Section 2, Township 21 South, Range 10 West, including all real property

comprising Chestnutt Hills Subdivision No. 1, a map or plat of which subdivision is recorded in the Office of the Probate Judge of Tuscaloosa County, Alabama, in Plat Book 7, Page 111, less and except Lot No. 6 of said subdivision; and also conveying all rights, title and interest in and to Chestnut Hills Subdivision No. 2, a map or plat of which is recorded in Plat Book 10, Page 49, in the Probate Records of Tuscaloosa County, Alabama.

Parcel II. The following described real estate located in Tuscaloosa County, Alabama, to-wit: A parcel containing five (5) acres, more or less, located in the Southwest Quarter of the Southeast Quarter of Section 2, Township 21 South, Range 10 West, and more particularly described as follows: Begin at the Southwest corner of said Southwest Quarter of the Southeast Quarter of Section 2, Township 21 South, Range 10 West, and run North along the West boundary of said Southwest Quarter of the Southeast Quarter a distance of 664.7 feet to a branch, which is the point of beginning; thence continue to run North along said West boundary a distance of 268.8 feet to a point, which point is 033.5 feet North of said Southwest corner and is marked by an iron pin; run thence East (with an interior angle of 71 degrees and 10 minutes) South 77 Degrees and 08 minutes East a distance of 813 feet to a point on the West boundary of Watermelon Road, which point is marked by an iron pin; run thence Southerly along said West boundary of said Watermelon Road a distance of 233 feet to said branch; run thence Westwardly along the center of said branch (following the meanderings thereof) a distance of 622 feet, more or less, back to the point of beginning; and being the same property conveyed by J. A. Channell and wife, Lillie Channell, to Frank E. Turner and his wife, Amanda Turner, by deed dated October 10, 1945, and recorded in the Probate Office of Tuscaloosa County, Alabama, in Deed Book 224, Page 510.

Parcel III. The following described real property located in Tuscaloosa County, Alabama, to-wit: A triangular parcel located in the Southwest Quarter of the Southeast Quarter of Section 2, Township 21 South, Range 10 West, and more particularly described as follows: As a starting point, start at the Southwest corner of said Southwest Quarter of the Southeast Quarter of said Section 2; thence run Northwardly and along the West boundary of said Southwest Quarter of the Southeast Quarter a distance of 933.5 feet to a point, which is the point of beginning of the property herein described; thence continue Northwardly and along the West boundary of said Southwest Quarter of the Southeast Quarter a distance of 100 feet to a point; thence with a deflection

angle of 144 degrees 25 minutes to the right, run in a Southeasterly direction for a distance of 162.63 feet to a point; thence with a deflection angle of 144 degrees 25 minutes to the right, run in a Westerly direction a distance of 100 feet back to the point of beginning. Reference to a plat of said property which is recorded in Deed Book 495, Page 285, in the Probate Office of Tuscaloosa County, Alabama, is made in aid of and as a part of this description.

TRACT 10:

A parcel of land located in the Northwest Quarter of the Southeast Quarter of Section 3, Township 21 South, Range 10 West in Tuscaloosa County, Alabama, being more particularly described as follows:

As a point of beginning start at the Northwest corner of the Northwest Quarter of the Southeast Quarter of said Section 3; thence run South along the West line of said Northwest Quarter of the Southeast Quarter for a distance of 133.28 feet to a point on the East or Northeast boundary of Hunter Creek Road, said point being 40 feet from the center line of said Hunter Creek Road; thence with an interior angle of 140 degrees 41 minutes run in a Southerly or Southeasterly direction along said Hunter Creek Road for a distance of 230.44 feet to a point; thence with an interior angle of 90 degrees 00 minutes run in a Northeasterly direction for a distance of 46.0 feet to a point; thence with an interior angle of 228 degrees 00 minutes run in an Easterly direction for a distance of 97.0 feet to a point; thence with an interior angle of 173 degrees 30 minutes run in an Easterly direction for a distance of 100.0 feet to a point; thence with an interior angle of 145 degrees 00 minutes run in a Northeasterly direction for a distance of 68.0 feet to a point; thence with an interior angle of 118 degrees 00 minutes run in a Northerly direction for a distance of 67.0 feet to a point; thence with an interior angle of 153 degrees 00 minutes run in a Northwesterly direction for a distance of 180.0 feet to a point; thence with an interior angle of 129 degrees 25 minutes run in a Westerly direction for a distance of 336.94 feet to the point of beginning.

Said parcel containing 2.22 acres.

TRACT 11:

Parcel A: Begin at the Northeast corner of the Northwest ¼ of the Northwest ¼ of Section 16, Township 21 South, Range 10 West, and continue West along the section line for a distance of 624.63 feet; thence to the left with an interior angle of 86° 24', go south for a distance of 615 feet; thence to the left with an interior angle of 93° 36' go East for a

distance of 762.57 feet; thence to the left with an interior angle of 23° 38' go in a northwesterly direction for a distance of 154.33 feet; thence to the right with an exterior angle of 242° 43' go in a northerly direction for a distance of 553 feet to the point of beginning, parcel containing 8.9337 acres, more or less.

Parcel B: Parcel B-1: A part of the NE¼ of the SE¼, 3-21-10, being more particularly described as follows: as a point of beginning, start at the Northwest corner of the NE¼ of the SE¼, thence run in a Southerly direction and along the West boundary of 1322.55 feet to the Southwest corner of the NE¼ of the SE¼; thence run in an Easterly direction and along the South boundary of the NE¼ of the SE¼ for a distance of 824.62 feet to a point; thence with a deflection angle of 93° 43' to the left run in a Northerly direction for a distance of 1322.28 feet to a point, said point lying on the North boundary of the NE¼ of the SE¼; thence with a deflection angle of 86° 17' to the left run in a Westerly direction for a distance of 828.40 feet to the point of beginning.

Parcel B-2: A part of the SE¼ of the SE¼, 3-21-10, being more particularly described as follows: as a point of beginning, start to the Northwest corner of the SE¼ of the SE¼; thence run in a Southerly direction and along the West boundary of the SE¼ of the SE¼ for a distance of 588.79 feet to a point; thence with a deflection angle of 129° 58' to the left run in a Northeasterly direction for a distance of 351.69 feet to a point; thence with a deflection angle of 4° 40' to the right continue in a Northeasterly direction for a distance of 239.0 feet to a point; thence with a deflection angle of 54° 42' to the left run in a Northerly direction for a distance of 193.0 feet to a point, said point lying on the North boundary of the SE¼ of the SE¼; thence with a deflection angle of 86° 07' to the left run in a Westerly direction for a distance of 466.0 feet to the point of beginning.

TRACT 12:

Begin Section line which is the West corner of E½ of E½ of NW¼ of Section 6, Township 21 South, Range 10 West, and continue North 416 feet; then East 104 feet; then South 416 feet; and then West 104 feet to point of beginning.

This land is part of W½ of SE¼ of NW¼ of Section 6, Township 21 South, Range 10 West, the tract starts at SE corner of the W½ of NE¼ of NW¼; then run North along East line of said forty 109 feet to point on North boundary of County Road, which is point of beginning; then continue North 382.7 feet; thence with deflection angle of 71° 29' to

the left run West 120 feet; thence with deflection angle of 108° 31' to the left run South parallel to East line of W½ of SE¼ of NW¼ 382.7 feet to point on North boundary of said county road; thence with a deflection angle of 71° 29' to left run East along road 120 feet to point of beginning.

TRACT 13:

Lots no. 18, 19, and 20 of Clark Subdivision as recorded in Plat Book 10, at Page 150, in the Probate Office of Tuscaloosa County, Alabama.

TRACT 14:

Begin at the Northeast corner of Section 8, Township 21, South, Range 10 West; then West along the Section line 480 feet to the point of beginning, thence turn an angle of 123 degrees left and run 260 feet; thence turn right 90 degrees and run 338 feet to margin of the Byler Road; run thence in a Northwesterly direction 258 feet along the East margin of Road to P.T.R.O.W. Marker 73 — 63; thence continue along the East margin 288 feet to a pipe on section line of Section 8; thence turn 131 degrees and 35 minutes and run East 510 feet along section line to the point of beginning, containing 3.4 acres, more or less same property described and recorded in Deed Book 360, Page 540, office of Judge of Probate, Tuscaloosa County, Alabama.

TRACT 15:

One acre of land in the Northeast Corner of the Northeast Quarter of the Northwest Quarter (NE ¼ of NW ¼) in Section 11, Township 21, Range 10, being and lying in Tuscaloosa County, Alabama.

A part of the NW-¼ of the NE-¼, Section 11, Township 21 South, Range 10 West, in Tuscaloosa County, Alabama, being more particularly described as follows: Start at the Northwest corner of the NW-¼ of the NE-¼, 11-21-10; thence run in an Easterly direction and along the North boundary of the NW-¼ of the NE-¼ for a distance of 47.8 feet to a point, said point lying on the West boundary of the Watermelon Road, an 80 foot right-of-way; thence with a deflection angle of 111° 58' to the right, run in a Southerly direction and along the curving West boundary of the Watermelon Road for a chord distance of 113.77 feet to a point, said point also lying on the West boundary of the NW-¼ of the NE-¼; thence with a deflection angle of 155° 13' to the right, run in a Northerly direction and along the West boundary of the NW-¼ of the NE-¼ for a distance of 105.62 ft. to the point of beginning.

TRACT 16:

Parcel One:

All of the NW¼ of NW¼ of Section 18, Township 21 South, Range 10 West, which lies South of GM&O RR and West of old Columbus Highway and N. of Alabama Insane Hospital Property.

Trailer Court (Pine Grove) Assessed by BOE.

Parcel Two:

A pt of NW¼ of NW¼ Section 18, Township 21 South, Range 10 West, desc as follows: Beg at NW cor of Sec 18 run thS along W margin of sd sec to a pt on N marg of GM&O RR R/W; th E along N mrg of sd RR R/W to a pt on the SW marg of R/W of Old US H/W 82; th NW direction along the curving marg of sd H/W R/W to a pt on the N marg of sd sec; th W to a pt of beg.

Parcel Three:

St at NE cor of the NW¼ of NW¼ of Section 18 and proceed South alg the E bdry line of sd NW¼ of NW¼ of Sec 18 for a dist of 401.0 ft to a pt, th with a right defl ang of 93 Degs 13 min, run in a W dir alg the R.O.W. line of the GM&O RR a dist of 432.64 ft to the POB of the prop herein desc.

Th W alg this same R.O.W. line a dist of 84.0 ft to a pt, th turn a defl ang of 87 Degs 00 min to the right and proceed N a dist of 522.2 ft to a pt on the South R.O.W. line of U.S. Hwy 82; th turn a defl ang of 95 Degs 58 min to the right and proceed a dist of 84.0 ft to another point on the S R. O. W. line of HWY 82; th turn a defl ang of 84 Degs 02 min and proceed South a dist of 518.9 ft to the POB. A total of 1.00 acres.

St at NE cor of NW¼ of NW¼ of Sec 18 and proceed South alg bdry line of NW¼ of NW¼ of Sec 18 for a dist of 401.00 ft to a pt, th with a right defl ang of 93 Degs 13 min, run in a W dir alg the R.O.W. line of the GM&O RR a dist of 348.64 ft to the POB of the prop herein desc. Th W alg this same R.O.W. line a dist of 84.0 ft to a pt. Th turn a delf ang of 87 degs 00 mins to the right and proceed N a distance of 518.9 ft to a pt on South R.O.W. line of U.S. Hwy 82. Th turn a defl ang of 94 Degs 30 min to the right and proceed a dist of 84.0 ft to another point on the S R. O. W. line of Hwy 82. Th turn a delf ang of 85 Degs 39 Min to the right and proceed South a dist of 516.6 ft to the POB.

A total of 1 acre.

Parcel Four:

St at the Sw cor of Sec 7, Tp 21 South, Range 10 West, and run E along Sec line 1580 to POB; th turn left 90 Degs 14 Min and run N 160.2' along E line of Foy W. Young land, as described in DB 495 at Pg 327; th E along U.S. 82 By-pass for a dist of 51' to a pipe; the S 169' along Rufus Richey's line to S line of Section 7; thence W 51' to POB.

Parcel Five:

Start at SW cor of Section 7, Township 21, Range 10 West, run E 1833 ft along South line of Sec 7 to a ditch being the pt of begin. Th run N along center of sd ditch 240 ft to S margin of H/W 82 th E 150 ft, to E line of Bettis land along S line th run S 248.3 ft to sec line th west 49 ft to begin all being in SE¼ of SW¼.

Parcel Six:

Start at SW cor Sec 7, Tp 21, Range 10 W & run E 1631.5 ft along Sec line to pt of beg; the L 93 Deg 15 min & run N 169 ft to R/W US H/W 82; th E along S marg of US H/W 82 213 ft to the center of a ditch; th down sd ditch in a SE dir 240 ft to the sec line; the W 301 ft to pt of beg, cont. 1.1 acres, more or less, all being Tusc County, Alabama.

Parcel Seven:

All lands in the North half of Section 18, Township 21 South, Range 10 West, that lay North of the Old Columbus Highway, West of the airport and South of the GM&O Railroad.

TRACT 17:

The surface rights in and to the following described land. To-wit: Begin at the point made by the South margin line of the Watermelon Road with the Northwest corner of the John Turner Place: run thence South 900 feet; thence West 726 feet to a stake, thence West 594 feet to the land of Henry Snider to a point of beginning, thence run North 73 feet 4 inches, thence run East 250 feet; thence run South 73 feet 4 inches; thence run West 250 feet to the point of beginning. This land lying and being in the NW¼ of the SW¼ of Section 11, Township 21, Range 10, West.

The surface rights in and to the following described land. To-wit: Begin at the point made by the South margin line of the Watermelon Road with the Northwest corner of the John Turner Place: run thence South 900 feet; thence West 726 feet to a stake, thence West 594 feet to the land of Henry Snider; thence run North 73 feet 4 inches to point of beginning; thence run North 73 feet 4 inches; thence run East 250 feet;

thence run South 73 feet 4 inches; thence run West 250 feet to the point of beginning. This land lying and being in the NW¼ of the SW¼ of Section 11, Township 21, Range 10, West.

The surface rights in and to the parcel of land hereinafter described to-wit: From a point made by the South margin line of the Watermelon Road with the Northwest corner of the John Turner Place, run South 900 feet; thence West 726 feet to a stake, thence continue West again 594 feet to the land of Henry Snider; thence run North 146 feet 8 in. to a point for beginning description of the lot and parcel of land herein conveyed. From said point of beginning run North 73 feet 4 inches; thence run East 250 feet; thence run South 73 feet 4 inches; thence run West 250 feet back to said point of beginning. This land lying and being in the NW¼ of the SW¼ of Section 11, Township 21, Range 10, West.

TRACT 18:

As a point of beginning start at the point of intersection of the East boundary of U.S. Highway No. 43 and the existing City Limits for Northport, Alabama; thence run in a Northwesterly direction and along the East boundary of U. S. Highway No. 43 to its point of intersection with the South boundary of the SE¼ of the NW¼; thence run in an Easterly direction and along the South boundary of the SE¼ of the NW¼ to the Southwest corner of the SW¼ of the NE¼; thence continue in an Easterly direction and along the South boundary of the SW¼ of the NE¼ for a distance of 660 ft. to a point; thence run in a Northerly direction and parallel with the West boundary of the SW¼ of the NE¼ to a point on the North boundary of the SW¼ of the NE¼; thence run in a Westerly direction and along the North boundaries of the SW¼ of the NE¼ and the SE¼ of the NE¼; thence run in a Westerly direction and along the North boundaries of the SW¼ of the NE¼ and the SE¼ of the NW¼ to its point of intersection with the East boundary of U.S. Highway No. 43; thence run in a Southerly direction and along the East boundary of U. S. Highway No. 43 to a concrete Highway Monument, said Monument lying at a Right-of-Way change of U. S. Highway No. 43; thence run in a Southwesterly direction for a distance of 40 ft. to a point; thence continue in a Southeasterly direction and parallel with and 30 ft. from the East boundary of U.S. Highway No. 43 to a point lying on the existing City Limits of Northport, Alabama; thence run in an Easterly direction and along the existing City Limits of Northport, Alabama for a distance of 32 ft., more or less, to the point of beginning.

TRACT 19:

Lots numbered Thirteen (13), Fourteen (14), and Fifteen

(15) of Clark Subdivision, a map or plat which is recorded in Plat Book 10, at Page 150, in the Probate Office of Tuscaloosa County, Alabama, and reference to which is hereby made in aid of and as a part of this description.

TRACT 20:

SE¼ of the SW¼ of Section 33, Township 20 South, Range 10 West in Tuscaloosa County, Alabama and that part of the SW¼ of the SE¼ lying west of the Shirley Road. Less and except one (1) acre in the NE corner of the SE¼ of the SW¼.

TRACT 21:

Starting at South East corner of Northeast Quarter of Northeast Quarter run West 264 feet to Road, thence North along East boundary of road 594 feet, thence East to Section Line, Thence South to beginning Section 1, Township 21, Range 11, three (3) acres more or less.

Begin at Southwest corner of Northwest Quarter of the Northwest Quarter run E. 544.5 feet to big ditch, thence along West Bank of ditch to Section line, thence North to beginning, Section 6, Township 21, Range 10, containing 6 acres more or less, containing 9 acres more or less.

TRACT 22:

Five (5) acres of land between Dunn's Flowerland and Greenvillage Mobile Home Park. Located on 82 Highway. 290.2 feet along Highway 82 and 728 ft. deep. Township 21 South, Range 10 West.

TRACT 23:

A part of the SE¼ of the SE¼ of Section 3, Township South, Range 10 West in Tuscaloosa County, Alabama, being more particularly described as follows: Start at the Northwest Corner of the SE¼ of the SE¼; thence run in an Easterly direction along the North boundary of the SE¼ of the SE¼ for a distance of 466.0 feet to the point of beginning; thence with a deflection of 193.0 ft. to a point; thence with a deflection angle of 112° 01′ to the left, run in a Northeasterly direction for a distance of 159.36 feet to a point; thence with a deflection angle of 21°23′ to the right, run in an Easterly direction for a distance of 54.74 feet to a point; thence with a deflection angle of 89°12′ to the left, run in a Northerly direction for a distance 118.89 feet to a point, said point lying on the North boundary of the SE¼ of the SE¼; thence with a deflection angle of 86°17′ to the left, run in a Westerly direction and along the North boundary of the SE¼ for a distance of 203.29

feet to the point of beginning. Said parcel containing 0.689 acres.

TRACT 24:

All of Lot Number 16 and Lot Number 17 of Clark Subdivision, a map or plat of which is recorded in the Office of Judge of Probate in Plat Book Ten (10) at Page 150, reference to said map or plat being made herein in aid of and as a part of this description.

No business buildings shall be built or used on the land hereby conveyed, nor shall said lands be used for any purpose other than residential. No dwelling costing less than Ten Thousand and NO/100 ($10,000.00) Dollars, shall be erected on said property. No lot shall be re-subdivided or more than one dwelling constructed on any of the lots herein conveyed prior to the installation of a proper, adequate, and approved central water supply system and the installation of an approved central sewage system. As part of the consideration for this conveyance, parties of the second part agrees to conform to the foregoing restrictions and agrees that said restriction shall be binding on the parties of the second part, his heirs, assigns and transferees.

TRACT 25:

The Northeast Quarter of the Northwest Quarter (NE¼ of NW¼) of Section 4, Township 21 South, Range 10 West of Tuscaloosa County, Alabama.

TRACT 26:

A parcel of land lying in the West one-half of the Southwest Quarter of Section 8, Township 21 South, Range 10 West, Tuscaloosa County, Alabama, the boundaries of said parcel being described as follows:

To locate the point of beginning, commence at the Southwest corner of said section; thence run North 4°48' West, along the West boundary of said section, a distance of 784.24 feet to the point of beginning. Thence continue North 4°48' West, along the West boundary of said section, a distance of 606.74 feet to a point on the South right of way line of U. S. Highway 82; thence North 69°46' East, along said right of way line, a distance of 437.93 feet to a point; thence South 59°01'30" east, along the said right of way line, a distance of 115.35 feet to a point on the West right-of-way line of a public road known as the Harper Road; thence South 7°49' East, along the West right of way line of said Harper Road, a distance of 627.69 feet to a point; thence South 82°11' West,

perpendicular to the West right of way line of said Harper Road, a distance of 549.53 feet to the point of beginning.

All lying in the West one-half of the Southwest Quarter of Section 8, Township 21 South, Range 10 West, Tuscaloosa County, Alabama and containing 8.00 acres, more or less.

TRACT 27:

A part of the SW¼ of the NW¼ of Section 11, Township 21 South, Range 10 West in Tuscaloosa County, Alabama being more particularly described as follows: As a point of beginning start at the point of intersection of the West boundary of Section 11 and the North boundary of the U. S. 82 By-Pass; thence run in an Easterly direction and along the North boundary of the U. S. 82 By-pass for a distance of 1006.81 ft. to a point; thence with a deflection angle of 94°26' to the left, run in a Northerly direction for a distance of 370.58 ft. to a point; thence with a deflection angle of 86°32' to the left, run in a Westerly direction for a distance of 1005.65 ft. to a point, said point lying on the West boundary of Section 11; thence with a deflection angle of 93°27' to the left, run in a Southerly direction and along the West boundary of Section 11 for a distance of 353.45 ft to the point of beginning.

TRACT 28:

All of Lots One (1), Two (2) and Three (3) of Clark Subdivision, a map or plat of which is recorded in the Probate Office of Tuscaloosa County, Alabama in Plat Book Ten (10) at Page 150, reference to said map or plat being made herein in aid of and as a part of this description.

TRACT 29:

A part of Lot Six (6) of Five Points Subdivision, a plat of which is recorded in Plat Book 5 at Page 196 of the Probate Records of Tuscaloosa County, Alabama, reference to the record of said map or plat being here made in aid of and as a part of this description, the portion of said lot 6 herein conveyed being described as follows: Start at the Northwest corner of said Lot 6 and run South along the Western boundary line thereof a distance of 115 feet; run thence East and parallel to the Northern boundary of said Lot 6 a distance of 190 feet, more or less, to the Eastern boundary of said lot and the Western margin of 38th Avenue; run thence North along the Eastern boundary of said Lot 6 to the Northeast corner thereof; run thence West along the Northern boundary of said Lot 6 to the Northwest corner thereof and the point of beginning.

All of Lot Numbered Six and Seven (6 and 7) of Five Points Subdivision near Northport, Alabama, as shown and des-

ignated on Plat recorded in Plat Book 5 at Page 196 of the Probate Records of Tuscaloosa County, Alabama; reference to the said map or plat being hereby made in aid of and as a part of this description.

Subject to an easement of the Alabama Power Company across the above lots.

TRACT 30:

All of the SE¼ of the NW¼ of Section 11, Township 21 South, Range 10 West in Tuscaloosa County, Alabama lying North of the U. S. 82 By-Pass and West of the Watermelon Road.

TRACT 31:

PARCEL NO. 1

Begin at the southeast corner of the southwest quarter of the northwest quarter of Section 11, township 21 south, range 10 west, Tuscaloosa County, Alabama; thence north 0°15' west along the east boundary line of said quarter-quarter a distance of 192.0 feet to a point on the southerly right-of-way line of U. S. Highway No. 82; thence north 84°25' west along the southerly right-of-way of said Highway No. 82, a chord distance of 322.08 feet to a point; thence south 0°23' east a distance of 203.80 feet to a point on the south boundary line of said quarter-quarter; thence north 86°31' west along said south boundary line, a distance of 88.23 feet to a point; thence south 0°03' east, a distance of 351.41 feet to a point on the northerly right-of-way line of Watermelon Road; thence south 87°33' east along said right-of-way line a distance of 473.58 feet to a point; thence north 79°44' east along said right-of-way line a chord distance of 457.38 feet; thence north 64°41 east along said right-of-way line a distance of 493.94 feet to a point on the north boundary line of the northeast quarter of the southwest quarter of said section 11; thence north 86°47' west, along the north boundary of said quarter-quarter a distance of 962.26 feet to the point of beginning.

All lying in the southwest quarter of the northwest quarter and the north one-half of the southwest quarter of section 11, township 21 south, range 10 west, Tuscaloosa County, Alabama, and containing 9.61 acres, more or less.

PARCEL NO. 2

To locate the point of beginning commence at the southeast corner of the southwest quarter of the northwest quarter of Section 11, Township 21 south, range 10 west, Tuscaloosa County, Alabama; thence north 0°15' west along the east boun-

dary line of said quarter-quarter, a distance of 443.38 feet to the point of beginning, said point of beginning lying on the northerly right-of-way line of U. S. Highway No. 82; thence continue north 0°15' west, along the east boundary of said quarter-quarter a distance of 383.11 feet to a point; thence south 0°83' east a distance of 370.66 feet to a point on the northerly right-of-way line of said Highway No. 82; thence South 84°24' east along said right-of-way line a chord distance of 321.20 feet to the point of beginning.

All lying in the southwest quarter of the northwest quarter of section 11, township 11 south, range 10 west, Tuscaloosa County, Alabama, and containing 2.75 acres, more or less.

TRACT 32:

A part of the Northeast Quarter (NE ¼) of the Northwest Quarter (NW ¼) of Section 11, Township 21 South, Range 10 West in Tuscaloosa County, Alabama, being more particularly described as follows:

To find the point of beginning, commence at the Northwest corner of the Northeast Quarter (NE ¼) of the Northwest Quarter (NW ¼) of Section 11, Township 21 South, Range 10 West; thence proceed in a Southerly direction along the West line of said quarter-quarter section a distance of 209.89 feet to a point which is the Northwest corner of the property herein described and is the point of beginning; thence continue in a Southerly direction along the West line of the said quarter-quarter section a distance of 656.74 feet to a point; thence with an interior angle of 93° 50' to the left proceed in an Easterly direction 1295.73 feet to a point which is 32.5 feet West of the East line of said Northeast Quarter (NE ¼) of the Northwest Quarter (NW ¼) of said section; thence with an interior angle of 85° 46' to the left proceed in a Northerly direction 648.78 feet to a point; thence with an interior angle of 94° 36' to the left, proceed in a Westerly direction 1291.77 feet to the point of beginning, said parcel containing 19.334 acres.

TRACT 33:

Parcel Number One: Begin at the Northeast corner of Section 1, Township 21 South, Range 11 West, and run South 3° 50' West for a distance of 234 feet to the first named corner of this parcel of property; thence run North 45° West for a distance of 170 feet to a point on the North boundary line of said Section 1 and the South boundary line of a public road; thence run in an Eastern or slightly Southeastern direction along the South boundary line of the said public road to a point on the West boundary line of the Church Road; thence run in

a Southern direction along the West boundary line of the Church Road to a point which is directly East of the Southeast corner of the property heretofore conveyed by Mary Lee Price Sutton to Oliver Sutton; thence run in a Western direction to the Southeast corner of said property heretofore conveyed by Mary Lee Price Sutton to Oliver Sutton; thence run in a Northern direction in a straight line to the first named corner of this parcel of property.

Parcel Two: Begin at the Northeast corner of Section 1, Township 21 South, Range 11 West, and run South 3° 50' West for a distance of 234 feet; thence run North 45° West for a distance of 170 feet to a point which is the first named corner of this parcel of property; thence run South 55° West for a distance of 420 feet to apoint; thence run South 28° West for a distance of 157 feet; thence run North with a compass reading of about 354° along the Eastern boundary line of the J. W. Christian property on the West for a distance of 388 feet, more or less, to a point on the Southern boundary line of the right-of-way of a public road; thence run in an Eastern direction along the Southern boundary line of the public road for 464 feet, more or less, to the point of beginning.

TRACT 34:

Parcel One: SW¼ of SW¼ of Section, Township 21 South, Range 10 West.

Parcel Two: NW¼ of SW¼ of Section 7, Township 21 South, Range 10 West.

Parcel Three: SW¼ of NW¼ of Section 7, Township 21 South, Range 10 West.

Parcel Four: NW¼ of NW¼ of Section 7, Township 21 South, Range 10 West.

Parcel Five: NE¼ of NW¼ of Section 7, Township 21 South, Range 10 West.

Parcel Six: Jennings Chapel Subdivisions and all property belonging to the Church including Chapelwood Subd. #1, Plat Book 9, at Page 102 and Chapelwood Subd. #2, Plat Book 10, at Page 101.

Parcel Seven: Cloverdale Estate Subdivision as recorded in Plat Book 10 at Page 90 in the Probate office of Tuscaloosa County, Alabama.

Parcel Eight: Booth Estate Subdivision as recorded in Plat Book at Page 96 in the Probate Office of Tuscaloosa County, Alabama.

Parcel Nine: Lavender Acres Subdivision as recorded in Plat Book 9 at page 97 in the Probate Office of Tuscaloosa County, Alabama.

Parcel Ten: A portion of SE¼ of SW¼ of: Start at SW corner of ¼ run thence Northerly along W Boundary of ¼ for 330 feet; which is point of beginning, thence continue Northerly along W boundary 90 feet to point; thence turn right through deflection angle 93° 45' run Easterly 210 feet to point; thence right deflection angle 86° 15' Southernly 90 feet to point; thence Westerly 210 feet more or less to point of beginning. All in Section 6, Township 21 South, Range 10 West.

Parcel Eleven: West ½ of the NE¼ and West ½ of SE¼ of SW¼, both in Section 7, Township 21 South, Range 10 West.

Parcel Twelve: Begin at the SW corner of the SE¼ of NW¼ run East along the South boundary line 660 ft to SE corner of the West ½ of SE¼ of NW¼; which is the point of beginning. Thence turn left and run along the East boundary line of said West ½ of SE¼ of NW¼ a distance of 69 feet more or less to the South margin of public road; thence left and follow the meanderings of the South margin of the road 371 feet to a point; thence left and run in a straight line 170 feet more or less to a point on the South boundary line of said 40; thence left and run 409 feet to point of beginning. All in section 6, Township 21 South, Range 10 West.

Less and except: Lots 8 through 15, and 21 through 24, of Simpson Subdivision and the lands of Mr. Chester F. Cork.

TRACT 35:

PARCEL I: A part of the NE ¼ of the NW ¼ of Section 11, Township 21 South, Range 10 West in Tuscaloosa County, Alabama being more particularly described as follows: Start at the Southwest corner of the NE ¼ of the NW¼; thence run in an Easterly direction and along the South boundary of the NE ¼ of NW ¼ for a distance of 1,279.64 ft. to the point of beginning; thence continue in an Easterly direction and along the South boundary of the NE ¼ of the NW ¼ for a distance of 10.0 ft. to the West boundary of the Watermelon Road, an 80 ft. right-of-way; thence run in a Northerly direction and along the West boundary of the Watermelon Road for a distance of 438.77 ft. to a point; thence run in a Westerly direction and parallel with the South boundary of the NE ¼ of the NW ¼ for a distance of 10.0 ft. to a point; thence run in a Southerly direction and parallel with the West boundary of the Watermelon Road for a distance of 438.92 ft. to the point of beginning.

PARCEL II: All of that part of the Southeast ¼ of the Northwest ¼ of Section 11, Township 21 South, Range 10 West, which lies North of the Highway 82 By-Pass and West of Watermelon Road in Tuscaloosa County, Alabama.

PARCEL III: All that part of the Southeast ¼ of the Northwest ¼ of Section 11, Township 21 South, Range 10 West, which lies South of the Highway 82 By-Pass and North of Watermelon Road in Tuscaloosa County, Alabama.

TRACT 36:

Parcel One:

To find the point of beginning start at the Southeast corner of the Southwest ¼ of Section 10, Township 21 South, Range 10 West in Northport, Alabama and proceed north along the half-section line a distance of 619 feet to a point. Then turn a deflection angle to the left of 94° 05' and proceed West 300 feet to a point. Then turn a deflection angle to the right of 94° 05' and proceed North a distance of 1054.50 feet to the Southwest corner, said corner being the point of beginning of the property herein described. Then continue North on this same line a distance of 250.0 feet to the Northwest corner of this property. Then turn a deflection angle to the right of 90° 00' and proceed East a distance of 124.62 feet to the Northeast corner which is on the West right-of-way of 11th Avenue. Then turn a deflection angle to the right of 90° 00' and proceed South along the West right-of-way of 11th Avenue a distance of 250.0 feet to the Southeast corner. Then turn a deflection angle to the right of 90° 00' and proceed West a distance of 124.62 feet to the point of beginning. A total of 0.715 acres.

Parcel Two:

The point of beginning of the property herein described is the Northeast corner of Lot No. 14 of Longview Subdivision as shown in Plat Book 10, Page 31 in Tuscaloosa County Probate Judge's Office.

From the point of beginning proceed north a distance of 30.0 feet to the centerline of 28th Street. Then turn a deflection angle to the right of 90° 00' and proceed a distance of 300.0 feet to the Northeast corner. Then turn a deflection angle to the right of 90° 00' and proceed south a distance of 1,581.3 feet to the Southeast corner. Then turn a deflection angle to the right of 94° 48' and proceed West a distance of 301.0 feet to the Southwest corner which is on the centerline of 22nd Street. Then turn a deflection angle to the right of 85° 12' and proceed North along the East line of Longview Subdivision a distance of 1,556.3 feet to the point of beginning.

A total of 10.80 acres.

Parcel Three:

The point of beginning of the property herein described is the Northwest corner of Lot No. 11 of George Rose Subdivision as shown in Plat Book 9, Page 49 in Tuscaloosa County Probate Judge's Office.

From the point of beginning proceed north along the west line of George Rose Subdivision and parallel to the Half-section line a distance of 1,707.4 feet to a point on the south right-of-way of U.S. Highway 82. Then turn a deflection angle to the left of 84° 32' and proceed west along the south right-of-way of Highway 82 a distance of 418.4 feet to another point on the south right-of-way. Then turn a deflection angle to the left of 95°28' and proceed south parallel to the half-section line a distance of 1,828.4 feet to the Southwest corner of the property. Then turn a deflection angle to the left of 101° 01' and proceed east a distance of 424.5 feet to the point of beginning.

A total of 16.903 acres.

TRACT 37:

That portion of the Northeast one-fourth of the Southeast one-fourth of Section 10, Township 21 South, Range 10 West, specifically described as follows: Begin at the Northeast corner of the Northeast one-fourth of the Southeast one-fourth of Section 10, Township 21 South, Range 10 West; and run thence in a Western direction along the North boundary line of the said forty for a distance of 548.5 feet to a point, which is the Northwest corner of the Alabama Power Company property and the Northeast corner of this parcel of property; thence run in a Southern direction and parallel to the East boundary line of the said forty for a distance of 461.2 feet to a point on the North boundary line of the right-of-way of the Watermelon Road; thence run in a Western and slightly Southwestern direction along the Northern boundary line of the right-of-way of the Watermelon Road to a point on the West boundary line of the Northeast one-fourth of the Southeast one-fourth of said Section 10; thence run in a Northern direction along the West boundary line of the said forty to the Northwest corner of the said forty; thence run in an Eastern direction along the North boundary line of the said forty to the Northeast corner of this parcel of property.

TRACT 38:

All of the following described real property in Tuscaloosa County, Alabama, to-wit: All of Lot Numbered (9) Nine of

Five-Points Subdivision near Northport, Alabama, as shown and designated on a plat recorded in Plat Book 5 at Page 196 in the Probate Office of Tuscaloosa County, Alabama, reference to said map or plat being hereby made in aid of and as a part of this description.

TRACT 39:

All of Lots numbered eight (8), twelve (12), thirteen (13) and fourteen (14) of Five Points Subdivision near Northport, Alabama, as shown and designated on a plat recorded in Plat Book 5 at Page 196 in the Probate Office of Tuscaloosa County, Alabama, reference to said map or plat being hereby made in aid of and as part of this description.

Section 2. That this act shall become effective upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973

Time: 6:00 P.M.

Act No. 935 H. 1401—Downing

AN ACT

To amend Act Number 755 of the Regular Session of the Legislature of 1967 as amended by Act 1943 of the 1971 Regular Session of the Legislature relating to Supernumerary Tax Assessors, Collectors, License Commissioners and other officials by changing their requirements, qualifications and compensation.

Be It Enacted by the Legislature of Alabama:

SECTION 1. Sections 1 and 3 of Act No. 755, H 49, Regular Session 1967, approved September 8, 1967 (Acts 1967, p. 1609) as amended by Act No. 1943, H 324, Regular Session 1971, approved September 20, 1971 (Acts 1971, p. 3138) which relates to supernumerary tax assessors, tax collectors, license commissioners, or other elected officials charged with the assessment and/or collection of ad valorem taxes in the various counties of the State and amended to read as follows:

"Section 1. That when any Tax Collector, Tax Assessor, License Commissioner or other elected official charged with the assessment and/or collection of any ad valorem taxes in any county of the State of Alabama:

"(a) Who has served for 14 years as such official in any of the counties of Alabama who has become permanently and

totally disabled, proof of such disability being made by certificate of three reputable physicians; or

"(b) Who has served for 15 years as a county official for any county of Alabama, the last 10 years or more being continuously as tax collector, tax assessor or license commissioner, and who is not less than 60 years of age; may elect to become a Supernumerary Tax Collector, Tax Assessor, License Commissioner or other elected official charged with the assessment and/or collection of any ad valorem taxes of the county in which he serves as such official by filing a written declaration to that effect with the Governor of the State of Alabama. If the Governor of the State of Alabama shall find that any such declarant qualified either under Subdivision (a) or (b) hereinabove set forth, a commission as Supernumerary Tax Collector, Tax Assessor, License Commissioner or other elected official charged with the assessment and/or collection of any ad valorem taxes for the county in which he has served in the State of Alabama shall thereupon be issued to such declarant by the Governor of the State of Alabama. In computing length of service as such official the time served as any other county-wide elected official of the county and/or the time served as chief clerk of the Tax Collector, Tax Assessor, or License Commissioner of any county shall be counted; or elected State and City officials.

"(c) Who has served 18 years as a county official for any county of Alabama, the last 6 or more years as tax collector, tax assessor or license commissioner, and prior thereto, at least 12 years as county service commissioner for the Department of Veterans Affairs, and who is not less than 60 years of age or who has become permanently and totally disabled, proof of such disability being made by certificate of three reputable physicians, may elect to become a supernumerary tax collector, tax assessor, license commissioner or other elected official by filing a written declaration to that effect with the Governor of the State of Alabama. If the Governor shall find that any such declarant is qualified under this subsection, a commission as supernumerary tax collector, tax assessor or license commissioner, as the case may be, for the county in which he has served shall be issued to the declarant."

"Provided however, this Act shall not apply in any county having a population of 600,000 inhabitants or more according to the last or any subsequent Federal census.

Section 3. Every such supernumerary official shall serve for life and receive in equal monthly installments on the first of each month an annual salary of Five Thousand Dollars ($5,000.00) per annum.

The Tax Collector, if there is a Supernumerary Tax Assessor or Tax Collector in the county, or the License Commissioner or person charged with the collection of any ad valorem taxes other than the Tax Collector, if there is a Supernumerary License Commissioner or other official charged with the assessing and/or collecting of ad valorem taxes in the county, shall out of the first money collected by him pay to the county governing body the said sum which shall be paid to the Supernumerary official as heretofore set forth. The said sum shall be deducted on a pro rata millage basis from payments to the state, county and all subdivisions and agencies thereof, except municipalities, to which the person collecting ad valorem taxes is charged with distributing of ad valorem taxes collected under the law. Provided that should such official die, or otherwise become disqualified as such Supernumerary official, any money remaining in such fund shall be refunded to the person by whom it was paid to the county and he shall distribute the money refunded to him to the State, county and other subdivisions and agencies on the same pro rata millage basis that it was originally withheld.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:15 P.M.

Act No. 936 H. 1526—Therrell

AN ACT

Relating to all counties having a population of not less than 300,000 nor more than 600,000, according to the most recent decennial census; providing for the compensation of the members of the governing body of said counties.

Be It Enacted by the Legislature of Alabama:

Section 1. The members of the board of revenue, county commission, or other like governing bodies of all counties having populations of not less than 300,000 and not more than 600,000, according to the most recent decennial census, shall receive an annual salary of twenty-one thousand nine hundred sixty dollars ($21,960.00) which shall be paid in equal monthly installments from any funds in the county treasury available for that purpose, as provided by law. Such compensation shall become effective at the beginning of the next term of said board of revenue, county commission, or other like governing body.

Section 2. All laws or parts of laws which conflict with this act are repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:15 P.M.

Act No. 937 H. 1740—Hobbie, Taylor, Barron, Harris, Jones (F)

AN ACT

Relating to all counties having a population of not less than 150,000 nor more than 180,000 according to the last or any subsequent federal decennial census; providing for supernumerary sheriffs in said county; and fixing the qualifications, compensation, status and tenure of office for said officials.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall apply to all counties having a population of not less than 150,000 nor more than 180,000 according to the last or any subsequent federal decennial census.

Section 2. Any sheriff of said county who meets the following qualifications:

(a) who has served for twenty (20) years as such official and who has become physically unable to carry out his duties on a full time basis while in office, upon proof of such disability being made by certificates of three reputable physicians; or

(b) who has served for twenty (20) years or more as such official for said county and who is not less than sixty (60) years of age;

may elect to become a supernumerary sheriff of such county by filing a written declaration to that effect with the Governor at least thirty (30) days prior to the time he desires to become a supernumerary official. If the Governor shall find that such applicant is qualified either under subdivision (a) or (b) hereinabove set forth, a commission as supernumerary sheriff for such county shall be issued to such applicant by the Governor. The office of sheriff made vacant by the election of any such declarant shall be filled by appointment of the Governor as proivded by law.

The provisions of this act shall apply only to those persons who begin their term of office subsequent to the passage of this act.

Section 3. Such supernumerary sheriff shall take the oath of office prescribed for sheriffs in this state and if a vacancy shall occur in the office of sheriff in said county the Governor shall immediately appoint such supernumerary as acting sheriff of such county, or, if the Governor determines that there is more than one such supernumerary in such county suitably qualified, then the Governor shall appoint one of such supernumeraries as acting sheriff, and such supernumerary so appointed shall immediately assume and exercise all of the duties, powers and authority of such official in such county until a permanent successor is appointed or otherwise elected. All fees and commissions which may become due while such supernumerary is so acting shall be paid into the county general fund, and the salaries of the employees in such office shall be paid by the county governing body during such period.

Section 4. Every such supernumerary official shall serve for life and receive an annual salary equal to forty percent (40%) of their salary of the office of sheriff in said county which was in effect at the time the supernumerary last occupied this office in his original serving capacity, and said compensation shall be paid from the general fund of the county in equal monthly installments on the first day of each month following his appointment as such supernumerary.

Section 5. The governing body of said county shall deduct from the salaries of such sheriffs an amount equal to five percent (5%) of the monthly salary paid such sheriffs. Such sum shall be deducted monthly from and after the effective date of this act and paid into the general fund of the county. Any persons subject to the provisions of this act may, during his term of office and prior to becoming supernumerary as provided herein, elect to withdraw an amount equal to one-half (½) the amount paid by him into the county general fund under the provisions of this section, and such shall be repaid to him. Thereafter he shall not be entitled to become a supernumerary hereunder. In the event such person shall die in office prior to becoming supernumerary, such sum shall be paid to his estate. No sheriff shall be eligible to become supernumerary unless two (2) years' payments as provided by this section have been paid, however, any sheriff who otherwise qualifies may become eligible upon the effective date of this act, by paying in a lump sum an amount equal to five percent (5%) of his compensation received during his last two years in office.

Section 6. The members of the governing body of said

county shall be the trustees of all of the assets of the five percent (5%) contributions pursuant to this act and shall have full power to invest and reinvest such assets, including the power to hold, purchase, sell, assign, transfer and dispose of any of the securities and investments in which any of the assets of this fund may have been invested, as well as the proceeds of said investments and any monies paid into this fund.

Section 7. Every official covered by this act shall be subject to the terms thereof unless he notifies the county governing body of his county in writing to the contrary thirty (30) days prior to the effective date of this act or within thirty (30) days after he assumes office if he is not in office on such date.

Section 8. All laws or parts of laws which conflict with this act are repealed.

Section 9. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 10. This act shall take effect on the _____ day of _____, 1975.

Approved September 5, 1973.

Time: 5:15 P.M.

Act No. 938 H. 1941—Lutz, Hearn, Hale, Grainger, King

AN ACT

Relating to Madison County and the Twenty-Third Judicial Circuit; providing for the position of Administrative Assistant to the District Attorney and the position of Office Manager-Legal Secretary to the District Attorney.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby established in Madison County and the Twenty-Third Judicial Circuit the position of Administrative Assistant to the District Attorney and the position of Office Manager-Legal Secretary to the District Attorney. These positions are in addition to any positions for office personnel already provided the District Attorney of the Twenty-Third Judicial Circuit.

Section 2. The Administrative Assistant to the District Attorney of Madison County and the Twenty-Third Judicial Circuit is hereby empowered to report all the proceedings of the Grand Juries of the circuit. He shall report all hearings in any

county courts and any municipal courts of said circuit when directed to do so by the District Attorney; and shall keep all official records in connection with the office of the District Attorney and under the direction of the District Attorney as the office may require. The Office Manager-Legal Secretary to the District Attorney shall perform the stenographic and clerical duties of the office of the District Attorney and shall manage and direct the stenographical and clerical activities of all other clerical personnel of the office, under the direction of the District Attorney as the office may require.

Section 3. The District Attorney of Madison County and the Twenty-Third Judicial Circuit is hereby empowered to appoint said Administrative Assistant to the District Attorney and said Office Manager-Legal Secretary to the District Attorney. Said Administrative Assistant and Office Manager-Legal Secretary shall be subject to the county wide merit or civil service system, if any such system is in existence in said county.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:30 P.M.

Act No. 939 H. 1950—Lutz, Hearn, King, Hale, Grainger

AN ACT

Relating to the City of Huntsville in Madison County, providing for the election of a president and vice president of the city board of education.

Be It Enacted by the Legislature of Alabama:

Section 1. This Act shall apply only to the City of Huntsville in Madison County in connection with the provisions for an elected board of education as provided for in Act No. 796 of the 1971 Regular Session, as amended.

Section 2. City boards of education elected under the provisions of said Act shall meet on the day following each election of members to such boards, and each such board shall elect one of its members to serve as president and one to serve as vice president and shall conduct such other business as may properly come before the board.

Section 3. All laws or parts of laws which conflict with this Act are repealed.

Section 4. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:30 P.M.

Act No. 940 H. 1956—Lutz, Grainger, Hale, King, Hearn

AN ACT

Relating to Madison County and the Twenty-Third Judicial Circuit; pertaining to Solicitor's or District Attorney's Fund.

Be It Enacted by the Legislature of Alabama:

Section 1. In Madison County and the Twenty-Third Judicial Circuit, all Solicitor's or District Attorney's fees hereafter taxed as costs and collected in criminal cases shall be paid by the Clerk of the Court collecting fees into the Treasury of Madison County, in a fund to be designated the District Attorney's Fund and shall be kept, used and expended in the manner hereinafter provided. Such payment shall be made by the 10th day of each month following collection. All monies in any Solicitor's Fund affected at the passage of this Act shall be paid immediately into the District Attorney's Fund and shall be kept, used and expended in the manner hereinafter provided.

Section 2. The District Attorney of Madison County and the Twenty-Third Judicial Circuit is hereby authorized to requisition expenditures from the said District Attorney's Fund for the payment of the following items: (a) office supplies, postage and telephone; (b) Necessary expenses relative to obtaining evidence; (c) films, photos and maps; (d) travel expenses at the rate authorized by law for state officials; (e) continuing legal education and conferences; (f) professional dues and assessments; (g) professional books and periodicals for use in the office of the District Attorney; (h) witness fees and transportation costs; (i) for any other law enforcement or criminal prevention purpose.

The Madison County Board of County Commissioners shall pay for such items out of the District Attorney's Fund upon such requisition and upon certification made to the Board by the District Attorney that the funds requested were or are to be used for the purposes enumerated in this section of this Act.

Section 3. The Board of County Commissioners of Madison County is authorized to make expenditures from the District Attorney's Fund for the defense of indigent defendants in any County Court in the county upon the certification of the Judge of such Court that the defendant was entitled to a defense at public expense in accordance with existing law; provided however, that no expenditures authorized by this Section 3 shall be made by the Board of County Commissioners of such county until it is determined by the Board that there is sufficient monies in the fund or to become due to the fund to meet the expenditures required to be made under Section 2 of this Act.

Section 4. The Board of County Commissioners is authorized to make expenditures from the District Attorney's Fund upon requisition and certification made to the Board by the Presiding Judge of the Twenty-Third Judicial Circuit, a sum not to exceed $4,000.00 during any fiscal year, to assist the judges of the circuit and the judges of the County Courts of Madison County for education and judicial purposes; provided however, that no expenditures authorized by this Section 4 shall be made by the Board of County Commissioners until it is determined by the Board that there are sufficient monies in the fund or to become due to the fund to meet the expenditures required to be made under Section 2 of this Act.

Section 5. On the first day of each and every fiscal year, said fiscal year beginning on the first day of each October and ending the last day of each September, all monies in the District Attorney's Fund which have not been expended as heretofore provided in this Act shall be transferred to the General Fund of Madison County and shall thereafter be expended and used as provided by law.

Section 6. The Chairman of the Board of County Commissioners of Madison County shall have the power to act for the Board upon the requisitions and in the payment of funds from the District Attorney's Fund.

Section 7. All laws and parts of laws which conflict with this Act are repealed.

Section 8. This Act is severable and if any part hereof is held to be unconstitutional, it shall not be construed to affect those parts which remain.

Section 9. This Act shall become effective upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:35 P.M.

Act No. 941 H. 1972—Lutz, Hearn, Hale, Grainger, King

AN ACT

Relating to Madison County; creating and establishing a county-wide personnel system; providing for a personnel department to be composed of a personnel board and a personnel director; providing for the composition, powers, duties, functions and expenses of the board and for the selection and compensation of its members; providing for the selection, powers, duties and compensation of the personnel director; and providing penalties for violation of any of the provisions of this Act.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) In Madison County, there is hereby created and established a personnel department for the government and control of all employees and appointees holding positions in the classified service, as defined in Section 4.

(b) The personnel department shall consist of a personnel board and a personnel director. The personnel board shall consist of three members, one to be appointed as a joint appointee by the Sheriff of the County, the Circuit Court Clerk, the County Judge and the District Attorney; one to be appointed by the county governing body; and one to be appointed as a joint appointee by the County Tax Assessor, the County Tax Collector, and the Probate Judge. Members of the Personnel Board now serving in Madison County by authority of Acts 1392 and 1488 of the 1971 Regular Session shall continue to serve until the end of their respective terms. At the expiration of the term of each member, his successor shall be appointed for a term of six years.

(c) The members of the board shall be qualified electors of the county. No person shall be appointed to the board who holds any salaried public office or employment with the county, nor shall any member, while a member of the board or for a period of one year after he has ceased to be a member, be eligible for appointment to any salaried office or employment in the service of the county or any county elective office.

(d) The board shall hold one regular meeting each month and such special meetings as it shall deem necessary. The members of the board shall receive Fifteen Dollars ($15.00) per diem for each meeting of the board they attend. The board shall not meet in excess of thirty days per year; provided, however, that the time consumed by the personnel board in hearings conducted under the provisions of Section 10(b) of this Act shall not be counted as a part of said thirty days.

Section 2. The members of the board shall elect one of their members chairman. The board shall determine the order of business for the conduct of its meetings and shall meet on the call of the chairman or by two of the members or by request of

the county governing body. Two members of the board shall constitute a quorum for the transaction of business. The functions of the board shall be:

(a) To formulate and promulgate a set of rules to supplement this Act and revisions and amendments thereof.

(b) To act in an advisory capacity to the governing body of the county on problems concerning personnel administration.

(c) As provided by this Act, and by rule, to hear and decide appeals submitted by any person in the classified service as set out in Section 10.

(d) In any investigation or hearing conducted by the board, it shall have the power to examine witnesses under oath and compel their attendance or the production of evidence before it by subpoenas issued in the name of the county. Each member of the board shall have the power to administer oaths to witnesses.

(e) To hold hearing on and adopt or revise the position classification plan. The board shall adopt a position classification plan and class specifications and revisions thereof, allocate and reallocate positions in the classified service to classes.

(f) To establish, after consultation with the governing body of the county and the elective officials of the county, coming within the provisions of this Act, a pay plan for all employees in the classified service. Such pay plan shall include, for each class of positions, a minimum and a maximum rate or rates as may otherwise in specific circumstances be fixed by law and such intermediate rates as may be deemed necessary or advisable by the personnel board; provided, however, that in the establishing of said pay plan for employees in the classified service and in the fixing of said minimum and maximum rates the board may not reduce the salary or wage of any employee in the classified service below that which is being earned by said employee at the time of the enactment of this bill into law unless said reduction is an economy measure or is part of a general curtailment program as specified in Section 10 (c) of this Act.

Section 3. The personnel board shall appoint a personnel director whose duty it shall be to act in the capacity of director for the personnel system. The personnel director may be dismissed only for just cause by the personnel board and said dismissal shall be effected by the filing with the said personnel director of written statement specifying the reasons for such dismissal. The personnel director shall act as secretary at board meetings, and shall be the board's executive officer, but shall not have a vote in determining the board's policy. He shall

perform such duties as are assigned to him by the board. The compensation of the director shall be fixed by the personnel board. The director shall:

(a) Attend all meetings of the personnel board.

(b) Administer all provisions of this Act and the rules established hereunder, not specifically reserved to the personnel board.

(c) Under the direction of the board, prepare rules and revisions and amendments thereof for the consideration of the board.

(d) Notwithstanding the other provisions of this section no increase in compensation to the personnel director in any one year shall be effective if such increase exceeds the average percentage of increase for all county employees subject to the personnel system, unless such increase is first approved by the county governing body.

Section 4. The provisions of this Act shall apply to the following officers and employees in the service of the county:

(a) All employees of the county tax assessor;

(b) All employees of the county tax collector;

(c) All employees of the county sheriff;

(d) All employees of the circuit court clerk;

(e) All employees of the circuit court register;

(f) All employees of the County Court;

(g) All Assistant District Attorneys and all employees of the circuit district attorney.

(h) The director of the county license department and all employees of the director;

(i) Employees of the board of registrar's office;

(j) All employees of the probate judge's office;

(k) All employees of the Circuit Court including court reporters and bailiffs, provided, however, that the provisions of this Act shall apply to court reporters for the sole and limited purpose of allowing the personnel board to fix the amount of county salary supplement to be paid to such court reporters, and such board is hereby authorized and empowered to fix such supplement.

(l) All probation officers of the circuit court;

(m) All other officers and employees in the service of the county except:

(i) Elective officers;

(ii) Members of appointive boards, commissions and committees;

(iii) All employees or appointees of the county board of education, or persons engaged in the profession of teaching or in supervising teaching in the public schools;

(iv) Attorneys, physicians, surgeons, and dentists who with the express or implied permission of any appointing authority or of the county, hold themselves out for employment by others in the same or a like line of work as that performed by them for such appointing authority;

(v) Persons in the "classified service" within the meaning of and subject to the State of Alabama merit system under any present or future law, and so long as any such law remains effective;

Offices, positions and employments specifically designated above as coming within the scope of this Act, and other offices, positions and employments not exempted above, shall constitute the classified service of the county. It is intended hereby to include within the classified service all offices, positions and employments now existing, or as they may hereafter exist, in whole or in part from funds of any such county, or the holders of which receive their compensation from any elected official and perform duties pertaining to the office of such elected official or officer except those hereinabove exempted in this Section. It shall be made mandatory, upon the enactment of this bill into law, that all employees hereinbefore designated as included within the "classified service" of the county shall be so included.

Section 5. Any provisions of this Act to the contrary notwithstanding, no person shall be employed or dismissed from a position as court reporter or bailiff of any court in the county except by the consent of the judge under whose supervision such person is to work or does work as a court reporter or bailiff.

Section 6. In addition to such other matters as may be necessary and proper to carry out the intent and purposes of this Act, rules shall be formulated and adopted by the personnel board, establishing specific procedures to govern the following phases of the personnel program.

(a) The preparation, installation, revision and maintenance

of a position classification plan covering all positions in the classified service;

(b) The formulation of minimum standards and qualifications for each class of position;

(c) The evaluation of employees during the probationary period;

(d) The separation from the service of employees through layoff, suspension, dismissal, and for incapacity to perform required duties;

(e) The maintenance and use of necessary records and forms.

Section 7. During the period of suspension of any employee, or pending final action on proceedings to review the suspension, demotion or dismissal of an employee, the vacancy may be filled by the appointing power only by temporary appointment.

Section 8. All original and promotional appointments shall be for a probationary period of six months during which the employee may be rejected by the appointing authorities at any time without right of appeal or hearing in any manner.

Section 9. (a) Any persons holding a position or employment included in the classified service who, on the effective date of this Act, shall have served continuously in such position or in some other position included in the classified service for a period of at least six months immediately prior to such effective date, shall assume regular status in the classified service in the position held on such effective date without preliminary examination or working tests and shall thereafter be subject in all respects to the provisions of this Act.

(b) Any other persons holding positions or employments in the classified service, shall be subject to suspension without pay by the appointing power and without right of appeal, but such suspension shall not exceed a total of thirty days in any fiscal year.

Section 10. (a) No employee in the classified service may be demoted, dismissed or reduced in pay without just cause.

(b) Any employee in the classified service who has been demoted, dismissed or reduced in pay, shall be entitled to receive a written statement of the reasons for such action from the appointing authority within three working days, and he shall have three working days time thereafter within which to file an answer in writing thereto. A copy of such charges and answer

shall be filed with the personnel director. In the event the employee files an answer, a copy of the written charges and of such answer shall be transmitted by the personnel director to the personnel board. Within ten working days from the date of the filing of his answer to the written charges, or in the event such written charges have not been made available to him within the time prescribed, then within ten working days after the action taken to demote, dismiss or reduce the pay of the employee, he may file a written demand with the personnel director, requesting a hearing before the personnel board. The board shall then investigate the case and conduct a hearing as provided by this Act and by the rules. Hearings shall be informally conducted and the rules of evidence need not apply.

(c) The provisions of this section shall not apply to reductions in pay which are part of a general plan to reduce salaries and wages as an economy measure or as part of a general curtailment program; provided, however, that said reductions in pay which are part of a general plan to reduce salaries and wages as an economy measure or as part of a general curtailment program shall be prorated to all employees in the classified service.

(d) The action of the personnel board after hearing pursuant to this section shall be final and conclusive; provided, however, that the action of the personnel board pursuant to such hearing may be reviewed by the circuit court of the county upon the filing, by either the employee or the appointing authority, in said circuit court of the county of a petition for writ of mandamus directed to the said personnel board and provided that said petition is filed by the said employee or the said appointing authority within thrty days from the date the decision of the personnel board has been rendered. The circuit court of the county shall have jurisdiction to hear the case de novo in said mandamus proceeding.

Section 11. Whenever in the judgment of any appointing authority it becomes necessary in the interest of economy or because the necessity for any position in his appointing authority no longer exists, he may abolish any position in the classified service within his appointing authority and lay off the employee holding such position or employment without filing written charges and without the right to a hearing as provided in Section 10 of this Act.

Section 12. In any matter requiring the services of an attorney, the personnel board may call upon the county attorney to render such legal services to the board as it may deem necessary or advisable.

Section 13. The compensation and all other expenses of the personnel board, the personnel director and all others arising under the provisions hereof, shall be paid by the county governing body on requisition drawn by the personnel director.

Section 14. It is the intent of this Act to create a personnel system for Madison county effective upon the enactment of this bill into law.

Section 15. Any person who violates any of the provisions of this Act shall be guilty of a misdemeanor.

Section 16. Definitions. The terms "appointing authority" and "appointing power" are defined to mean any person, persons, department head or elected official of the county who, at the time of the enactment of this bill into law, has the power by law to hire, to employ, make transfers, promotions, demotions, reinstatements, layoffs, suspensions and dismissals of employees affected by this Act.

Section 17. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 18. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 19. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 5:40 P.M.

Act No. 942 H. 1986—Lutz, Grainger, King, Hearn, Hale

AN ACT

To repeal Act No. 1883, S. 1014, Regular Session 1971, (Acts 1971, p. 3064), entitled, "An Act To provide for establishment and operation of family court divisions of the circuit courts of all counties having populations of not less than 175,000 nor more than 300,000; prescribing the jurisdiction of such court divisions and providing for selection, appointment, qualifications, tenure, and compensation of their officers and administrative and clerical personnel; abolishing special courts having jurisdiction of juveniles and domestic relations cases."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1883, S. 1014, Regular Session 1971, (Acts 1971, p. 3064), entitled, "An Act To provide for establishment and operation of family court divisions of the circuit courts

of all counties having populations of not less than 175,000 nor more than 300,000; prescribing the jurisdiction of such court divisions and providing for selection, appointment, qualifications, tenure, and compensation of their officers and administrative and clerical personnel; abolishing special courts having jurisdiction of juveniles and domestic relations cases," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:00 P.M.

Act No. 943 H. 1991—Grainger, Lutz, Hale, Hearn, King

AN ACT

Relating to Madison County; providing for the health and welfare of children; requiring the mandatory reporting by physicians, institutions and others of injuries inflicted by other than accidental means, upon children under the age of sixteen years; exempting physicians, institutions and others from any liability, civil or criminal, that might otherwise be incurred or imposed for participation in such report; prescribing penalties for failure to report.

Be It Enacted by the Legislature of Alabama:

Section 1. In Madison County, Alabama all hospitals, clinics, sanitariums, doctors, physicians, surgeons, nurses, school teachers, pharmacists, social workers, or any other person called upon to render aid or medical assistance to any child under 16 years of age, when such child appears to be suffering from starvation or sexual abuse or attempted abuse or is suffering from or has sustained any wound or injury which appears to be unusual or of such a nature so as to indicate or raise a suspicion, that such wound or injury was caused by physical abuse, child brutality, child abuse, or neglect, such hospital, clinic, sanitarium, doctor, physician, surgeon, nurse, school teacher, pharmacist, social worker, or such other person called upon to render aid or medical assistance to said child under the age of 16 years of age, shall be required to report the same by telephone immediately, followed by a written report to the district attorney of Madison County and in addition to the chief of police of the city or to the Sheriff of Madison County if the observation is made in an unincorporated territory, or to the department of pensions and security; provided, however, that a child who is being furnished Christian Science treatment by a duly accredited Christian

Science Practioner shall not be considered a physically neglected child for the purpose of this section.

When a report is made to a law enforcement official, such official subsequently shall inform the department of pensions and security of the report so the department can carry out its responsibility to provide protective services to the respective child.

Section 2. These reports shall state, if known, the name of the child, his whereabouts, the names and addresses of the parents, guardian or caretaker, the character and extent of his injuries. The written report shall also contain, if known, any evidence of previous injuries to said child and any other pertinent information which might establish the cause of such injury or injuries, and the identity of the person or persons responsible for the same.

Section 3. Any person, firm or corporation participating in the making of a report pursuant to this act or participating in a judicial proceeding resulting therefrom shall be immune from any liability, civil or criminal, that might otherwise be incurred or imposed.

Section 4. The doctrine of privileged communication shall not be a ground for excluding any evidence regarding a child's injuries or the cause thereof, in any judicial proceeding resulting from a report pursuant to this act.

Section 5. Any person who shall knowingly fail to make the report required by this act shall be guilty of a misdemeanor and shall be punished by a sentence of not more than 6 months or a fine of not more than $500.00.

Section 6. The provisions of this act are severable. If any part or parts of the act shall be declared unconstitutional or void, such declaration shall not affect the remainder of this act.

Section 7. All laws or parts of laws which conflict with this act are hereby repealed.

Section 8. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:00 P.M.

Act No. 944 H. 2003—Lutz, King, Hearn, Hale, Grainger

AN ACT

To repeal Act No. 2225, H. 2689, Regular Session 1971 (Acts 1971, p. 3579), entitled "An Act To regulate further the costs and fees in the county courts of all counties having populations of not less than 175,000 nor more than 300,000 according to the last or any subsequent federal census."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 2225, H. 2689, Regular Session 1971 (Acts 1971, p. 3579), entitled "An Act To regulate further the costs and fees in the county courts of all counties having populations of not less than 175,000 nor more than 300,000 according to the last or any subsequent federal census," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:00 P.M.

Act No. 945 H. 2004—Lutz, King, Hearn, Hale, Grainger

AN ACT

Relating to Madison County; regulating the costs and fees in the county courts.

Be It Enacted by the Legislature of Alabama:

Section 1. In the county courts of Madison County a fee of Two Dollars shall be charged by the clerk of the court for docketing each case, civil and criminal, which fee shall be collected for the county and shall be paid monthly by the clerk to the county treasurer or other proper custodian of county funds. Such fee shall be in lieu of any other like docketing fee heretofore provided for by law.

Section 2. All laws or parts of laws which conflict with this Act are repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:00 P.M.

Act No. 946 H. 2005—Lutz, King, Hearn, Hale, Grainger

AN ACT

To repeal Act No. 1390, H. B. 2305, Regular Session 1971 (Acts 1971, p. 2559), entitled, "An Act To regulate further the compensation of members of the county board of registrars in all counties having populations of not less than 175,000 nor more than 300,000, according to the most recent federal decennial census; providing for payment of additional compensation from the county treasury."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1390, H. B. 2305, Regular Session 1971 (Acts 1971, p. 2559), entitled, "An Act To regulate further the compensation of members of the county board of registrars in all counties having populations of not less than 175,000 nor more than 300,000, according to the most recent federal decennial census; providing for payment of additional compensation from the county treasury," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:15 P.M.

Act No. 947 H. 2006—Lutz, King, Hale, Hearn, Grainger

AN ACT

To repeal Act No. 1489, S. B. 1084, Regular Session 1971 (Acts 1971, p. 2341), entitled, "An Act To regulate further the compensation of members of the county board of registrars in all counties having populations of not less than 175,000 nor more than 300,000, according to the most recent federal decennial census; providing for payment of additional compensation from the county treasury."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1489, S. B. 1084, Regular Session 1971 (Acts 1971, p. 2341), entitled, "An Act To regulate further the compensation of members of the county board of registrars in all counties having populations of not less than 175,000 nor more than 300,000, according to the most recent federal decennial census; providing for payment of additional compensation from the county treasury," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:15 P.M.

Act No. 948 H. 2007—Lutz, Hale, Grainger, King, Hearn

AN ACT

Relating to Madison County so as to further regulate the compensation of the members of the board of registrars; providing for payment of additional compensation from the county treasury.

Be It Enacted by the Legislature of Alabama:

Section 1. In Madison County, each member of the county board of registrars shall receive fifteen dollars ($15.00) per day for each day's attendance upon the sessions of the board. Of this, ten dollars ($10.00) per day shall be paid by the state as prescribed by Act No. 531, S. B. 101, Regular Session 1947 (General Acts 1947, p. 388), as amended, and the remaining five dollars ($5.00) shall be paid from the general funds of the county.

Section 2. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 3. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:15 P.M.

Act No. 949 H. 2008—Lutz, King, Grainger, Hearn, Hale

AN ACT

To repeal Act No. 1332, H. B. 2120, Regular Session 1971 (Acts 1971, p. 2281), entitled, "An Act Relating to registration of voters; providing for meeting days of board of registrars in counties of 175,0000 to 300,000 population according to the last Federal Decennial Census; and providing for clerical assistants to be furnished to the board by county and city government."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1332, H. B. 2120, Regular Session 1971 (Acts 1971, p. 2281), entitled, "An Act Relating to registration of voters; providing for meeting days of board of registrars in counties of 175,000 to 300,000 population according to the last Federal Decennial Census; and providing for clerical assistants to be furnished to the board by county and city government," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:15 P.M.

Act No. 950 H. 2009—Lutz, King, Grainger, Hale, Hearn

AN ACT

To repeal Act No. 1475, S. B. 1011, Regular Session 1971 (Acts 1971, p. 2516), entitled, "An Act Relating to registration of voters; providing for meeting days of board of registrars in counties of 175,000 to 300,000 population according to the last Federal Decennial Census; and providing for clerical assistants to be furnished to the board by county and city government."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1475, S. B. 1011, Regular Session 1971 (Acts 1971, p. 2516), entitled, "An Act Relating to registration of voters; providing for meeting days of board of registrars in counties of 175,000 to 300,000 population according to the last Federal Decennial Census; and providing for clerical assistants to be furnished to the board by county and city government," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:15 P.M.

Act No. 951 H. 2010—Lutz, Hearn, Grainger, Hale, King

AN ACT

Relating to Madison County; pertaining to the registration of voters; providing for meeting days of the board of registrars; and providing for

clerical assistants to be furnished to the board by county and city government.

Be It Enacted by the Legislature of Alabama:

Section 1. The board of registrars of Madison County shall meet at the county courthouse for the purpose of registering voters on the first Monday in each month, and may also meet an additional one hundred and fifty (150) days in each calendar year any place in the county that it may select.

Section 2. At any meeting of the board applications for registration shall be taken from persons residing anywhere in the county. The court of county commissioners, board of revenue, or like governing body of Madison County, or the governing body of any city in Madison County, may, in its discretion, employ clerical assistants for the board, fix their compensation, and provide for the payment thereof from the general fund of the county or city.

The board shall meet for the purpose of purging the lists of registered voters and holding hearings thereon at the times now prescribed by law. In addition, the board may purge names from the lists of registered voters at any time the board is in session provided a hearing is held in case the person whose name is proposed to be stricken from the registration lists has become a non-resident of the county or has been convicted of any offense mentioned in Section 182 of the Constitution, and written notice of the hearing and the date thereof is given by the board to such person by first class mail at his last known address at least thirty days before any election and a copy of such notice is forwarded to the sheriff of the county for personal service upon such person within at least five days after receipt thereof by him, which service must be returned by the sheriff within ten days after receipt thereof by him.

Section 3. The provisions of this Act are cumulative and shall not be construed to repeal or supersede any laws not inconsistent herewith.

Section 4. All laws and parts of laws in conflict with the provisions of this Act are hereby expressly repealed.

Section 5. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:15 P.M.

Act No. 952 H. 2011—Lutz, Hearn, Grainger, King, Hale

AN ACT

To repeal Act No. 1877, H. 2112, Regular Session 1971 (Acts 1971, p. 3056), entitled, "An Act To provide for official court reporters in all circuit courts in all counties in the State of Alabama having a population of not less than 175,000 nor more than 300,000 inhabitants according to the then next preceding Federal census; to fix the duties and status and authority of such court reporters; and to provide for the appointment of such court reporters by each circuit judge in such counties and to provide for the compensation and salary of such court reporters."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1877, H. 2112, Regular Session 1971 (Acts 1971, p. 3056), entitled "An Act To provide for official court reporters in all circuit courts in all counties in the State of Alabama having a population of not less than 175,000 nor more than 300,000 inhabitants according to the then next preceding Federal census; to fix the duties and status and authority of such court reporters; and to provide for the appointment of such court reporters by each circuit judge in such counties and to provide for the compensation and salary of such court reporters," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:15 P.M.

Act No. 953 H. 2012—Lutz, Hale, King, Hearn, Grainger

AN ACT

To repeal Act No. 1902, S. 1020, Regular Session 1971, (Acts 1971, p. 3093), entitled "An Act To provide for official court reporters in all circuit courts in all counties in the State of Alabama having a population of not less than 175,000 nor more than 300,000 inhabitants according to the then next preceding Federal census; to fix the duties and status and authority of such court reporters; and to provide for the appointment of such court reporters by each circuit judge in such counties and to provide for the compensation and salary of such court reporters."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1902, S. 1020, Regular Session 1971, (Acts 1971, p. 3093), entitled "An Act To provide for official court reporters in all circuit courts in all counties in the State of Alabama having a population of not less than 175,000 nor more than 300,000 inhabitants according to the then next pre-

ceding Federal census; to fix the duties and status and authority of such court reporters; and to provide for the appointment of such court reporters by each circuit judge in such counties and to provide for the compensation and salary of such court reporters," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:15 P.M.

Act No. 954 H. 2013—Lutz, King, Grainger, Hearn, Hale

AN ACT

To repeal Act No. 1310, H. 2124, Regular Session 1971, (Acts 1971, p. 2258), entitled, "An Act Relating to counties having a population of not less than 175,000 nor more than 300,000; further regulating the sale of alcoholic beverages in such counties and certain municipalities therein."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1310, H. 2124, Regular Session 1971, (Acts 1971, p. 2258) entitled "An Act Relating to counties having populations of not less than 175,000 nor more than 300,000; further regulating the sale of alcoholic beverages in such counties and certain municipalities therein," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:15 P.M.

Act No. 955 H. 2014—Lutz, Hale, Hearn, Grainger, King

AN ACT

To repeal Act No. 2490, S. 1016, Regular Session 1971 (Acts 1971, p. 3896), entitled, "An Act Relating to counties having populations of not less than 175,000 nor more than 300,000; further regulating the sale of alcoholic beverages in such counties and certain municipalities therein."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 2490, S. 1016, Regular Session 1971, (Acts 1971, p. 3896), entitled "An Act Relating to counties having populations of not less than 175,000 nor more than 300,000; further regulating the sale of alcoholic beverages in such counties and certain municipalities therein," is hereby expressly repealed.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:15 P.M.

Act No. 956 H. 2017—Lutz, Hale, Hearn, King, Grainger

AN ACT

Relating to Madison County; requiring building permits for any structures erected in said county; authorizing and providing means to implement the provisions of said Act; and authorizing funds necessary to implement this procedure.

Be It Enacted by the Legislature of Alabama:

Section 1. In Madison County the county commission, board of revenue, or like governing body is authorized and may require, upon passage of an appropriate resolution by the governing body of Madison County, building permits to be issued by a designated official of said county for any home, building, or other structure erected or built within the county and outside of the boundaries of any municipality located in the county.

Section 2. All homes, buildings or other structures erected or built in Madison County outside of the boundaries of any municipality located in the county shall come within the confines or jurisdiction of the requirements of this Act.

Section 3. The county engineer, or such other county official as may be designated by the county governing body, shall be charged with the duty and responsibility of implementing this Act.

Section 4. Any individual, partnership, association, trust or corporation desiring to erect a home, building or other structure within the area or areas designated hereinabove, shall apply to the county engineer or other person so designated by the county governing body for an application for a building permit prior to erecting any building or other structure within the area or areas designated hereinabove. Upon such applica-

tion being made, and the proper fee being paid, as hereinafter provided, the county engineer or other person so designated, as herein provided, shall issue a building permit to said person, firm, corporation, business or company.

Section 5. Such application for a building permit shall include a brief and accurate description of the building or structure to be built, to include, but not necessarily limited to, height, dimensions, materials to be used, use and style.

Section 6. The governing body of Madison County shall be authorized to charge a fee, not exceeding $1.00 per $1,000 construction costs to issue the permit and this fee shall be required to be paid to the county engineer or other official so designated by the governing body of the county and collected by him prior to the issuance of the building permit and such funds shall be paid by said official to the county governing body and deposited by the governing body into the general fund of said county to defray expenses for the operation of said office.

Section 7. The county governing body shall provide the county engineer or other official charged with the execution of this Act with such clerical assistance, quarters, books, stationery and supplies, furniture, equipment, postage, travel expenses and such other conveniences it may consider necessary and proper for the efficient operation of said office.

Section 8. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 9. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 10. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:00 P.M.

Act No. 957 H. 2021—Lutz, Hearn, King, Grainger, Hale

AN ACT

Relating to Madison County and any city or town located therein; providing that any bank having a combined capital and surplus of one hundred thousand dollars or more, and having an authorized office or place of business in any city or town located in the county, to establish, maintain, and operate additional offices or places of business in such county, upon obtaining approval of the State Superintendent of Banks.

Be It Enacted by the Legislature of Alabama:

Section 1. In Madison County any bank having a combined capital and surplus of one hundred thousand dollars ($100,000.00) or more, and having an authorized office or place of business in any city or town located in the county shall have the power to establish, maintain, and operate within the limits of the county additional offices or places of business, provided that such bank, before the establishment of any additional offices or places of business, shall first secure the consent thereto of the Superintendent of Banks of the State of Alabama.

Section 2. All laws or parts of laws which conflict with this Act are repealed.

Section 3. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:20 P.M.

Act No. 958 H. 2022—Fite

AN ACT

Relating to Winston County; authorizing and requiring the Judge of Probate of said county to hold an election for the purpose of annexing certain territory to the city of Haleyville, and prescribing the conduct of such election.

Be It Enacted by the Legislature of Alabama:

Section 1. The Judge of Probate of Winston County, shall, within thirty days from the effective date of this Act, order an election to be held for the purpose of annexing certain territory as prescribed in Section 2 of this Act to the municipality of Haleyville. The Judge of Probate shall give notice and conduct the election as provided in Code of Alabama 1940, Title 37, Section 135, as amended, except that all qualified voters residing within the corporate limits of Haleyville shall participate in the election, as well as those residing in the territory proposed to be annexed, and the question shall be determined by a majority of the total vote.

Section 2. The election held as provided in Section 1 shall be to include within the corporate limits of the city of Haley-

ville, in addition to the lands now included, all of the following territory, to wit:

Begin at NW corner of Section 7, T9S, R10W, and thence East along section lines to the NE corner of Section 10, T9S, R10W; thence South along the section lines to the South boundary line of T9S, R10W, this being the SE corner of Section 34, T9S, R10, West; thence continue South along the Section lines to the Southeast corner of Section 15, T10S, R10W; thence West along the section lines to the SW corner of Section 18, T10S, R10W; thence North along the Marion County line to the NW corner of Section 6 T10S, R10W, thence continue North along said Marion County line to the NW corner of Section 7 T9S, R10W, which is the point of beginning.

Section 3. In accordance with the provisions of Amendment 255 of the Constitution of Alabama 1901, if a majority of the electors voting in the election prescribed in Section 1 and 2 of this Act approved the annexation proposed therein, this Act shall become effective as to such annexation immediately after the certification of the results of such election. If the majority of electors reject the proposed annexation, this Act shall be of no force and effect.

Section 4. The provisions of this Act are cumulative and shall not be construed to repeal or supersede any laws not inconsistent herewith.

Section 5. As to the Judge of Probate of Winston County, this Act shall be effective immediately upon its passage and approval by the governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:20 P.M.

Act No. 959 H. 2025—Gray (F)

AN ACT

To amend Section 2 of Act #535, S. 528, regular session, 1965 (Acts, 1965, v. 1, p. 787), an Act relating to the duties and compensations of members of the County Commission of Bullock County, so as to provide a mileage allowance for the members of such Commission.

Be It Enacted by the Legislature of Alabama:

Section 1. That Section 2 of Act #535, S. 528, Regular Session, 1965, (Acts, 1965, v. 1, p. 787), an Act relating to the duties and compensations of County Commissioners of Bullock County, Alabama, is amended further to read as follows:

"Section 2. That in lieu of the per diem and mileage now authorized and allowed the county commissioners under the provisions of Title 12, Section 28, Code of Alabama, 1940, as amended, for the performance of duties with relation to the public roads and bridges of the county, the members of the County Commission of Bullock County shall be paid the sum of $300.00 monthly for the performance of such duties with relation to the public roads and bridges of Bullock County, Alabama. In addition, each member of the County Commission shall be entitled to fifteen cents per mile for each mile traveled on such official business, but the total mileage allowance claimed by or paid to any Commissioner for any calendar month shall not exceed three hundred dollars ($300.00). Such payments shall be paid from the Gasoline Tax Fund of the county by warrant drawn by the Judge of Probate on order of the County Commission."

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:20 P.M.

Act No. 960 H. 2028—Wynot, Carnes, Waldrop

AN ACT

To provide that the provisions of Act No. 2234, S. 249, Regular Session 1971 (Acts 1971, p. 3592), which Act abolishes primary elections in all cities and towns having populations of less than 300,000 in Alabama, shall not apply to Etowah County.

Be It Enacted by the Legislature of Alabama:

Section 1. The provisions of Act No. 2234, E. 249, Regular Session 1971 (Acts 1971, p. 3592), entitled, "An Act To abolish primary elections of political parties in all cities and towns of 300,000 population or less; and to repeal conflicting laws," shall not apply to Etowah County.

Section 2. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 3. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. This Act shall become effective immediately

upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:20 P.M.

Act No. 961 H. 2030—Owens

AN ACT

Relating to Hale County, providing for the election and tenure of the members of the county board of education.

Be It Enacted by the Legislature of Alabama:

Section 1. The board of education of Hale County shall consist of five members who shall be elected by the qualified electors of the entire county at large. Members of the board from Places 2 and 5 respectively, shall be elected at the general election to be held in 1974 and every six years thereafter. Members of the board from Places 1 and 3, respectively, shall be elected at the general election to be held in 1976 and every six years thereafter. The member from Place 4 shall be elected at the general election to be held in 1978 and every six years thereafter. All members holding office when this act becomes effective shall continue in office until their respective terms expire and until their successors are elected and have qualified.

Section 2. The Hale County Board of Education, as herein constituted, shall be vested with the same authority, powers and duties as is provided for county boards of education under the general law.

Section 3. All laws or parts of laws which conflict with this act are repealed.

Section 4. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:20 P.M.

Act No. 962 H. 2040—Manley, Pruitt

AN ACT

To provide that any incorporated municipality in Perry County shall have the authority, after notice, to remove or demolish buildings, and parts of buildings, when nuisance; to provide for public hearings; to provide for special assessment constituting a lien on the property involved, and for the collection of such assessments.

Be It Enacted by the Legislature of Alabama:

Section 1. Any incorporated municipality in Perry County shall have the authority, over structures, or parts of buildings and structures, party walls and foundations when the same are found by the governing body of the city to be unsafe to the extent of being a public nuisance from any cause.

Section 2. The term "appropriate official" as used in this Act shall mean any official or employee of the municipality designated by the Mayor or other chief executive officer of such municipality as the person to exercise the authority and perform the duties delegated by this Act. Whenever the appropriate official of such city or town shall find that any building, structure, part of building or structure, party wall or foundation situated in any such city or town is unsafe to the extent that it is a public nuisance, such official shall give the person or persons, firm, association or corporation last assessing the property for state taxes and any lien holder of record notice by personally serving upon such person, firm, association or corporation a copy of said notice to remedy the unsafe or dangerous condition of such building or structure, or to demolish the same, within a reasonable time set out in said notice, which time shall be not less than sixty (60) days or suffer such building or structure to be demolished by the municipality and the cost thereof assessed against the property. In the event that such personal service is returned "Not Found" after not less than two attempts, such notice may be given by registered or certified mail. The mailing of such registered mail notice, properly addressed and postage prepaid, shall constitute notice as required herein. Notice of such order, or a copy thereof, prior to the delivery or mailing of the same as required by the immediately preceding sentence, shall also be posted at or within three (3) feet of an entrance to the building or structure, provided that if there is no entrance such notice may be posted at any location upon such building or structure.

Section 3. Within the time specified in such notice, but not more than sixty (60) days from the date such notice is given, any person, firm or corporation having an interest in such building or structure may file a written request for a hearing before the governing body of the municipality, together with his ob-

jections to the finding by the said city official that such building or structure is unsafe to the extent of becoming a public nuisance.

The filing of such request shall hold in abeyance any action on the finding of such city official until determination thereon is made by such governing body. Upon holding such hearing, which hearing shall be held not less than ten (10) nor more than sixty (60) days after such request, or in the event no hearing is timely requested, the governing body, after the expiration of sixty (60 days from the date such notice is given, shall determine whether or not such building or structure is unsafe to the extent that it is a public nuisance. Notice of such meeting of the governing body, and that such determination will be made thereat, shall be published one time in a newspaper of general circulation in such city, not less than ten (10) days prior thereto. In the event that it is determined by such governing body that such building or structure is unsafe to the extent that it is a public nuisance, the governing body shall order such building or structure to be demolished. Such demolition may be accomplished by such city by the use of its own forces, or it may provide by contract for such demolition. Such city shall have authority to sell or otherwise dispose of salvaged materials resulting from such demolition.

Any person aggrieved by the decision of the governing body at such hearing may, within thirty (30) days thereafter, appeal to the Circuit Court upon filing with the clerk of said court notice of such appeal and bond for security of costs in the form and amount to be approved by said Circuit Clerk. Upon filing of said notice of appeal and approval of the bond, the clerk of the court shall serve a copy of said notice of appeal on the clerk of said city or town, or upon any person acting in the capacity of clerk, and said appeal shall be docketed in said court, and shall be a preferred case therein. The clerk of said city shall, upon receiving such notice, file with the clerk of the court a copy of the findings and determination of the governing body in proceedings and trial shall be held without jury upon the determination of the governing body that such building or structure is unsafe to the extent that it is a public nuisance.

Section 4. Upon demolition of such building or structure, the appropriate municipal official shall make report to the governing body of the cost thereof, and such governing body shall adopt a resolution fixing the costs which it finds were reasonably incurred in such demolition and assessing the same against the property; provided, however, the proceeds of any monies received from the sale of salvaged materials from said building or structure shall be used or applied against the cost

of said demolition; and provided, further, that any person, firm or corporation having an interest in said property may be heard at such meeting as to any objection he may have to the fixing of such costs or the amounts thereof. The clerk of such city or town shall give not less than fifteen (15) days notice of the meeting at which the fixing of such costs are to be considered by publication in a newspaper of general circulation in such city of a notice that the governing body of such city at such meeting will consider the fixing of such costs thereat. The fixing of said costs by the governing body shall constitute a special assessment against the lot or lots, parcel or parcels of land upon which the building or structure was located, and thus made and confirmed shall constitute a lien on said property for the amount of such assessment. Said lien shall be superior to all other liens on said property except liens for taxes, and shall continue in force until paid. The city clerk of the city shall mail a certified copy of the resolution by registered or certified mail to the person last assessing the property for taxes, and a certified copy of such resolution shall be published in the manner and as prescribed for the publication of municipal ordinances, and a certified copy of such resolution shall also be filed in the Office of the Judge of Probate of the county in which such city is situated.

Section 5. The city or town shall have the power to assess the costs authorized herein against any lot or lots, parcel or parcels of land purchased by the State of Alabama at any sale for the nonpayment of taxes, and where any such assessment is made against such lot or lots, parcel or parcels of land, a subsequent redemption thereof by any person authorized to redeem, or sale thereof by the State, shall not operate to discharge, or in any manner affect the lien of such city or town for such assessment, but any redemptioner or purchaser at any sale by the State of any lot or lots, parcel or parcels of land upon which an assessment has been levied, whether prior to or subsequent to a sale to the State for the nonpayment of taxes, shall take the same subject to such assessment.

Section 6. Payment of any such assessment shall be made in the manner and as provided for the payment of municipal improvement assessments in the provisions of Title 37, Section 557, Code of Alabama 1940, as the same has heretofore or may hereafter be amended, and upon the property owner's failure to pay such assessment the officer designated by the city to collect such assessments shall proceed to collect the assessment as provided in the provisions of Title 37, Sections 558-569, Code of Alabama 1940.

Section 7. This Act shall be cumulative in its nature, and

in addition to any and all power and authority which any such municipality may have under any other law.

Section 8. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional by a court of competent jurisdiction, such declaration shall not affect the part that remains.

Section 9. This Act shall become effective immediately upon its passage and approval by the Governor, or its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:20 P.M.

Act No. 963 H. 2044—McDonald, St. John, Drake

AN ACT

Relating to counties having populations of not less than 53,000 nor more than 55,000 according to the most recent federal decennial census, providing an annual expense allowance for the circuit clerks of such counties in lieu of and superseding all existing travel or other expense allowances heretofore prescribed by law for such officials.

Be It Enacted by the Legislature of Alabama:

Section 1. The circuit clerks of counties having populations of not less than 53,000 nor more than 55,000 according to the most recent federal decennial census shall hereafter receive an annual expense allowance of $3,600 payable in equal monthly installments from the general funds of the counties to which this Act applies.

The allowances herein provided shall be payable in lieu of any and all travel or other expense allowances now payable to such officials.

Section 2. All laws or parts of laws, including any local or special laws in conflict with this Act are hereby superseded by this Act.

Section 3. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:20 P.M.

Act No. 964 H. 2046—Turner, Cottingham

AN ACT

Applicable to any county having a population of not less than 54,500 nor more than 56,000 acording to the most recent federal decennial census; to authorize such county to promulgate, administer, and enforce airport zoning regulations limiting the height of structures and objects of natural growth, and otherwise regulating the use of property, in the vicinity of airports, and to acquire, by purchase, grant, or condemnation, air rights and other interests in land; to provide penalties and remedies for violations of this act or of any ordinance or regulation made under the authority conferred herein; and for other purposes.

Be It Enacted by the Legislature of Alabama:

Section 1. The provisions of this act shall apply only to counties having a population of not less than 54,500 nor more than 56,000 according to the most recent federal decennial census.

Section 2. Definitions.—As used in this act, unless the context otherwise requires:

(1) "Airport" means any area of land or water designed and set aside for the landing and taking off of aircraft and utilized in the interest of the public for such purposes. The term "airport" shall also include any area having installations relating to flight and particularly including installations, facilities and base of operations for tracking/or data acquisition concerning flight. Such areas shall be deemed to be "utilized in the interest of the public" when the owner thereof by contract, license, or otherwise permits the use of such areas by others. Such areas also shall be deemed to be "utilized in the interest of the public" when utilized by the government of the State of Alabama or any agency thereof or by the government of the United States or any agency thereof in furtherance of the National Defense or any National Government Program relating to flight.

(2) "Airport hazard" means any structure or tree or use of which obstructs the airspace required for the flight of aircraft or which obstructs or interferes with the control or tracking or data acquisition in the landing, taking off, or flight at an airport, or at any installation or facility relating to flight, and tracking and/or data acquisition of flight craft; hazardous interfering with or obstructing such landings, taking off or flight of aircraft or which is hazardous to or interferes with tracking and/or data acquisition pertaining to flight and flight vehicles.

(3) "Airport hazard area" means any area of land or water upon which an airport hazard might be established if not prevented as provided in this act.

(4) "Political subdivision" means any municipality, city, town, village, or county.

(5) "Person" means any individual, firm, co-partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

(6) "Structure" means any object constructed or installed by man including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

(7) "Tree" means any object of natural growth.

(8) "Air installation compatible use zone" means a land area on which certain land uses may obstruct the airspace or otherwise be hazardous to aircraft operations or which is exposed to the health and safety hazards of aircraft operations.

(9) "Composite noise rating" (CNR) means a calculated quantity derived from developing the appropriate sets of noise contours for the various aircraft operations at the airport; determining from these contours the perceived noise levels (PNdB) for the area in question; and applying the perceived noise levels corrections which take into account other factors such as the number of operations, time of day, and so forth.

(10) "Noise exposure forecast" (NEF) means a calculated quantity derived from developing the appropriate sets of noise levels (EPNdB) for the area in question; and applying the effective perceived noise levels corrections which take into account other factors such as the number of operations, time of day, and so forth.

Section 3. Incompatible Land Use and Airport Hazards Contrary to Public Interest. — (1) It is hereby found that in order to promote the public health, safety, peace, comfort, convenience and general welfare of the airport environs, it is necessary: (a) to guide, control and regulate future development, (b) to promote orderly and appropriate use of the land, (c) to protect the character and stability of existing land uses, (d) to prevent the destruction or impairment of the airport and the public investment therein, (e) to enhance the quality of the areas affected, and (f) to protect the general economic welfare by restricting incompatible land use. Accordingly, it is hereby declared that: (a) Air Installation Compatible Use Zones may be established, (b) ordinances to implement the Air Installation Compatible Use Zones may be adopted, (c) incompatible land uses may be restricted or prohibited, (d) standards of land use compatibility may be adopted, and (e) any land use that would endanger the continued use of the airport may be prohibited.

(2) It is hereby found that an airport hazard endangers the lives and property of users of the airport and of occupants of land in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of the airport and the public investment therein. Accordingly, it is hereby declared: (a) that the creation or establishment of an airport hazard is a public nuisance and an injury to the community in which the airport is located; (b) that it is therefore necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards be prevented; and (c) airport hazards may also include: (1) uses which release into the air any substance which would impair visibility or otherwise interfere with the operation of aircraft; such as, but not limited to steam, dust and smoke; (2) uses which produce light emission, either direct or indirect (reflective), which would interfere with pilot vision or judgment, (3) uses which produce electrical emissions which would interfere with aircraft communications systems or navigational equipment, (4) uses which would attract birds or waterfowl, such as but not limited to the dumping of garbage, maintenance of feeding stations, or the growing of certain vegetation.

(3) It is hereby found that certain noise levels of varying duration and frequency create hazards to both physical and mental health. It is further found that a definite danger to life exists in certain areas adjacent to airports. Accordingly, it is hereby declared that where the conditions exist residential and high density uses shall not be permitted.

(4) It is hereby found that different land uses have different sensitivities to noise. Accordingly, it is hereby declared, that standards of acceptability and noise reduction standards for construction may be established.

(5) It is hereby declared that the regulation of incompatible land uses and airport hazards should be accomplished, to the extent legally possible, by exercise of the police power, without compensation. It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or property interests therein.

Section 4. (1) In order to prevent the creation or establishment of incompatible land uses or airport hazards, every political subdivision having an airport hazard within its territorial limits may adopt, administer, and enforce, under the police

power and in the manner and upon the conditions hereinafter prescribed, airport zoning regulations for such airport hazard area, which regulations may divide such area into zones, and within such zones specify the land uses permitted and regulate and restrict the height to which structures and trees may be erected or allowed to grow.

The zoning jurisdiction of the county is hereby declared to be all unincorporated areas in the county, except within the police jurisdiction of any municipality and the area within two miles of an airport owned or operated by a municipality, when said municipality exercises or declares its intention to exercise zoning control over these areas. Provided that when by local acts the jurisdiction of zoning regulations are limited to the corporate limits of a city, this act shall not confer any further territorial jurisdiction on such city or its planning board or boards.

(2) Any municipality having an airport hazard area within its zoning jurisdiction, as herein defined is hereby granted the same powers contained in paragraph (1) of this section.

The zoning jurisdiction of any municipality, zoning under the authority of this act, may include in addition to the corporate area of said municipality, the area within the police jurisdiction of such municipality and the area lying within two miles of the boundary of any airport owned or operated by said municipality, except where a local act limits the territorial jurisdiction of a city planning board to the corporate limits of a city; this act limits zoning jurisdiction to such corporate limits.

Section 5. Relation to Comprehensive Zoning Regulations. —(1) Incorporation. In the event that a political subdivision has adopted, or hereafter adopts, a comprehensive zoning ordinance regulating, among other things, the height of buildings, any airport zoning regulations applicable to the same area or portion thereof, may be incorporated in and made a part of such comprehensive zoning regulations, and be administered and enforced in connection therewith.

(2) Conflict. In the event of conflict between any airport zoning regulations adopted under this act and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land or any other matter, and whether such regulations were adopted before or after the airport zoning regulations, or by some other political subdivision the more stringent limitation or requirement shall govern and prevail.

Section 6. Procedure for adoption of zoning regulations.— (1) Notice and Hearing. The legislative body of such politi-

cal subdivision in question, shall provide for the manner in which such regulations and restrictions and the boundaries of such districts shall be determined, established and enforced, and from time to time amended, supplemented or changed, and may adopt such ordinances or regulations as may be necessary to carry into effect and make effective the provisions of this act. No airport zoning regulations shall be adopted under the authority of this act unless and until the proposed ordinance has been published at least once a week for two consecutive weeks in advance of its passage in a newspaper of general circulation within the political subdivision or if there is no newspaper, then by posting the same in four conspicuous places within the political subdivision together with a notice stating the time and place that the ordinance is to be considered by the legislative authorities, and stating further that at such time and place all persons who desire shall have an opportunity of being heard in opposition to or in favor of such regulations. No such regulations shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Such regulations, restrictions, and boundaries, and ordinances passed under the authority of this act may from time to time be amended, supplemented, changed, modified, or repealed. The preceding provisions of this section relative to public hearings and official notices shall apply equally to all changes and amendments.

(2) Airport Zoning Commission. Prior to the initial zoning of any airport hazard area under this act, the political subdivision which is to adopt the regulations shall be authorized to appoint an airport zoning commission consisting of five members each to be appointed for a term of three years or may designate any existing planning commission to recommend the boundaries of the various zones to be established and the regulations to be adopted therefor. Such commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the legislative body of the political subdivision shall not hold its public hearings or take other action until it has received the final report of such commission.

Section 7. Airport Zoning Requirements.—(1) Reasonableness. All airport zoning regulations adopted under this act shall be reasonable and none shall impose any requirement or restriction which is not reasonably necessary to effectuate the purposes of this act. In determining what regulations it may adopt, the political subdivision shall consider, among other things, the character of the flying operations expected to be conducted at the airport, the nature of the terrain within the airport hazard area, the character of the neighborhood, and the uses to which the property to be zoned is put and adaptable.

(2) Nonconforming Uses. No airport zoning regulations adopted under this act shall require the removal, lowering or other change or alteration of any structure or tree not conforming to the regulations when adopted or amended, or otherwise interfere with the continuance of any nonconforming use, except as provided in section 8 (3).

Section 8. Permits and Variances.—(1) Permits. Any airport zoning regulations adopted under this act may require that a permit be obtained before any new structure or use may be constructed or established and before any existing use or structure may be substantially changed or substantially altered. All such regulations may provide rules under which nonconforming uses shall be discontinued and removed in case of being abandoned, destroyed, deteriorated, or decayed. In any event, however, all such regulations shall provide that before any nonconforming structure or tree may be replaced, substantially altered, rebuilt, allowed to grow higher, or replanted, a permit must be secured from the administrative agency authorized to administer and enforce the regulations, authorizing such replacement or change; but no such permit shall be required to make maintenance repairs to or replace parts of existing structures which do not enlarge or increase the height of an existing structure. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming structure or tree or nonconforming use to be made or become higher or become a greater hazard to air navigation than it was when the applicable regulation was adopted or than it is when the application for a permit is made.

(2) Variances. Any person desiring to erect any structure, or increase the height of any structure, or permit the growth of any tree, or otherwise use his property in violation of airport zoning regulations adopted under this act, may apply to the administrative agency for a variance from the zoning regulations in question. Such variances shall be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of the regulations and this act; provided, that any variance may be allowed subject to any reasonable conditions that the board of adjustment may deem necessary to effectuate the purposes of this act.

(3) Hazard Marking and Lighting. In granting any permit or variance under this section, the administrative agency may, if it deems such action advisable to effectuate the purposes of this act and reasonable in the circumstances, so con-

dition such permit or variance as to require the owner of the structure or tree in question to permit the political subdivision, at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard, upon payment to the owner for all damage resulting to his property by such maintenance.

Section 9. Appeals.—(1) Any person aggrieved by any decision of an administrative agency made in its administration of airport zoning regulations adopted under this act, or any governing body of a political subdivision which is of the opinion that a decision of such an administrative agency is an improper application of airport zoning regulations of concern to such governing body or board, may appeal to the circuit court of the county where such airport is located.

(2) All appeals taken under this section must be taken within ten days by filing with the agency from which the appeal is taken, a notice of appeal specifying the grounds thereof. The agency from which the appeal is taken shall forthwith transmit to the court all the papers constituting the record upon which the action appealed from was taken.

(3) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the agency from which the appeal is taken certifies to the court, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would in its opinion, cause imminent peril to life or property and file bond to indemnify the owner for damages as may be fixed by the court. In such cases proceedings may be stayed upon the filing by the appellant, of a supersedeas bond in an amount to be set by the circuit court of the county in which the subject matter of such decision lies on application by the appellant or the agency from which the appeal is taken.

(4) The court may, in conformity with the provisions of this act, reverse, affirm wholly or partly, or modify, the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the administrative agency from which the appeal is taken.

Section 10. Administration of Airport Zoning Regulations. —All airport zoning regulations adopted under this act shall provide for the administration and enforcement of such regulations by an administrative agency which may be an agency created by such regulations or any official, or other existing agency of the political subdivisions adopting the regulations.

The duties of any administrative agency designated pursuant to this act shall include that of hearing and deciding all permits under this act.

Section 11. Administrative Agency.—(1) All airport zoning regulations adopted under this act shall provide for an administrative agency to have and exercise the following powers:

(a) To hear and decide any special exceptions to the terms of the airport zoning regulations upon which such agency may be required to pass under such regulations:

(b) To authorize in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

(2) The agency shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called on by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

(3) The agency shall adopt rules in accordance with the provisions of the ordinance or resolution by which it was created. Meetings of the agency shall be held at the call of the chairman and at such other times as the agency may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All hearings of the agency shall be public. The agency shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the agency and shall be a public record.

Section 12. Remedies.—In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this act or of any ordinance or other regulation made under authority conferred hereby, the proper local authorities of the municipality, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct or abate such violation, to prevent the occupancy of such building, structure

or land, or to prevent any illegal act, conduct, business, or use in or about such premises.

Section 13, Acquisition of Air Rights.—In any case in which: (1) It is desired to remove, lower, or otherwise terminate a nonconforming structure or use; or (2) the approach protection necessary cannot, because of constitutional limitations, be provided by airport zoning regulations under this act; or (3) it appears advisable that the necessary approach protection be provided by acquisition of property rights rather than by airport zoning regulations, the political subdivision within which the property or nonconforming use is located or the political subdivision owning the airport or served by it may acquire, by purchase, grant, or condemnation in the manner provided by the law under which political subdivisions are authorized to acquire real property for public purposes, such air right, avigation easement, or other estates or interest in the property or nonconforming structure or use in question as may be necessary to effectuate the purposes of this act. In the case of the purchase of any property or any easement or estate or interest therein or the acquisition of the same by the power of eminent domain the political subdivision making such purchase or exercising such power shall in addition to the damages for the taking, injury or destruction of property also pay the cost of the removal and relocation of any structure or any public utility which is required to be moved to a new location.

Nothing contained in this act shall be construed as authorizing the doing of any act or taking of any property or right therein without first making just compensation to the owner thereof for such damage for the property taken or the interest therein taken and any other damage to such owner's property not taken.

Section 14. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 15. All laws or parts of laws which conflict with this act are repealed.

Section 16. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:30 P.M.

Act No. 965 H. 2047—Turner, Cottingham

AN ACT

Amending Section 3 of Act No. 729, H. 598, Regular Session 1953 (Acts 1953, p. 985) which provides airport zoning regulations, so as to exclude counties having a population of not less than 54,500 nor more than 56,000 according to the most recent federal decennial census.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 3 of Act No. 729, H. 598, Regular Session 1953 (Acts 1953, p. 985) is hereby amended to read as follows:

"Section 3. Power to Adopt Airport Zoning Regulations.

"(1) In order to prevent the creation or establishment of airport hazards, any county having an airport hazard area within its zoning jurisdiction as hereinafter defined may adopt, administer, and enforce, under the police power and in the manner and upon the conditions hereinafter prescribed, airport zoning regulations for such airport hazard area, which regulations may divide such area into zones, and within such zones specify the land uses permitted and regulate and restrict the height to which structures and trees may be erected or allowed to grow.

"The zoning jurisdiction of the county is hereby declared to be all unincorporated areas in the county, except within the police jurisdiction of any municipality and the area within two miles of an airport owned or operated by a municipality, when said municipality exercises or declares its intention to exercise zoning control over these areas. Provided that when by local acts the jurisdiction of zoning regulations are limited to the corporate limits of a city, this act shall not confer any further territorial jurisdiction on such city or its planning board or boards.

"(2) Any municipality having an airport hazard area within its zoning jurisdiction, as herein defined is hereby granted the same powers contained in Section 3 (1) above.

"The zoning jurisdiction of any municipality, zoning under the authority of this act, may include in addition to the corporate area of said municipality, the area within the police jurisdiction of such municipality and the area lying within two miles of the boundary of any airport owned or operated by said municipality, except where a local act limits the territorial jurisdiction of a city planning board to the corporate limits of a city; this act limits zoning jurisdiction to such corporate limits.

"The provisions of this act shall not apply to counties

having a population of not less than 54,500 nor more than 56,000 according to the most recent federal decennial census."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:20 P.M.

Act No. 966 H. 2050—Crowe

AN ACT

Relating to counties having a population of not less than 55,500 nor more than 56,500 inhabitants according to the most recent federal decennial census; to provide that any such county having an Intermediate Court shall use the rules of civil procedure adopted by the Alabama Supreme Court in such Intermediate Court.

Be It Enacted by the Legislature of Alabama:

Section 1. The provisions of this Act shall apply only to counties having a population of not less than 55,500 nor more than 56,500 inhabitants according to the most recent federal decennial census.

Section 2. In any such county having an Intermediate Court the rules of civil procedure as adopted by the Alabama Supreme Court on January 3, 1973 and amended from time to time thereafter, shall be used to govern the practice, procedure, judgments and records of such Intermediate Court. The judge of the Intermediate Court may exclude such procedure rules as he may deem to be inconsistent with the general purpose and function of a court of limited jurisdiction, where it is apparent that justice would be best served to do so.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:20 P.M.

Act No. 967 H. 2057—Kinsey, Benton

AN ACT

Relating to counties having populations of not less than 57,000 nor more than 61,000 according to the most recent federal decennial census,

to prohibit the discharge of litter, specifically bottles and cans, sewage and any other trash or debris into the waters of such counties; to provide for enforcement and penalties for violations of the provisions of this act.

Be It Enacted by the Legislature of Alabama:

Section 1. No person shall place, throw, deposit. discharge or cause to be discharged, placed, thrown or deposited into the waters of any county having a population of not less than 57,000 nor more than 61,000 according to the most recent federal decennial census, any litter, specifically including, but not limited to, bottles and cans, paper materials, or any other materials which render the water or surrounding beaches or shorelines unsightly.

Section 2. The provisions of Section 1 of this act shall be enforced by any officer of the State Department of Conservation and Natural Resources, or by any state, county or municipal law enforcement officer in such counties.

Section 3. Any individual who violates any of the provisions of Section 1 shall be guilty of a misdemeanor, punishable upon conviction by a fine of not less than $10.00 nor more than $500.00, by imprisonment for not more than 90 days, or both.

Section 4. All laws or parts of laws which conflict with this act are repealed.

Section 5. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:20 P.M.

Act No. 968 H. 2060—Grainger, King, Hearn, Lutz, Hale

AN ACT

To authorize and empower the Madison County Commission or other governing body of Madison County, Alabama, to establish a county-wide water and sewage system by the purchase of any existing water and/or sewage authority in the county, or by legally acquiring same through any other method; to authorize the commission of said county, by appropriate resolution, to provide for the issuance of the necessary municipal bonds to pay for the purchase and/or operation of such a

county-wide system; to provide for the operation of such systems; to repeal conflicting laws.

Be It Enacted by the Legislature of Alabama:

Section 1. The Madison County Commission, or other like governing body of Madison County, Alabama, is hereby authorized and empowered to establish a county-wide water and/or sewage system through the purchase, or by otherwise legally taking or assuming control of, any existing water and/or sewage system or authority now existing in the county.

Section 2. The governing body of said county is further authorized and empowered to provide, by appropriate resolution, for the issuance of any and all municipal bonds, or other bonds, by whatever name called, to provide for the purchase and/or operation of such existing water and/or sewage systems or authorities as may be purchased or taken over by the county as hereinabove specified.

Section 3. Said county governing body is further authorized and empowered to employ any and all personnel necessary for the efficient operation of any such county-wide system and is further authorized and empowered to provide any and all equipment, buildings, supplies, of whatever nature, description or type, to effectively implement such a county-wide system as is authorized to be established by this Act.

Section 4. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 5. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:20 P.M.

Act No. 969 H. 2064—Turner, Cottingham

AN ACT

To permit the Court of County Commissioners, or any similar or successor governing body of Dallas County to supplement, from County funds, the salary of any Circuit Judge residing in said County and serving the Circuit Court of said County.

Be It Enacted by the Legislature of Alabama:

SECTION ONE: The Court of County Commissioners of Dallas County, or any similar or successor governing body for

said County, is hereby authorized and empowered, but not required, to pay an other, further and additional sum of up to, but not exceeding, SIX THOUSAND DOLLARS ($6,000.00) per annum as a salary supplement to any Circuit Judge who resides in said County and who serves the Circuit Court for said County.

SECTION TWO: All funds permitted to be disbursed hereunder shall be payable solely out of the general fund of Dallas County.

SECTION THREE: Any such funds paid as authorized hereunder shall be disbursed in regular monthly installments, the same as other salaries of the County.

SECTION 4: This act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming law; however, no sitting member of the Circuit Court of Dallas County, Alabama, holding such office on the effective date of this act shall receive any funds authorized hereunder except in accordance with the Constitution of Alabama.

Approved September 5, 1973.

Time: 6:20 P.M.

Act No. 970 H. 2065—McDonald, St. John, Drake

AN ACT

To amend Section 19, Act No. 30, S. 5, 1963 Regular Session (Acts 1963, p. 404) which provided for demand for jury trial, so as to provide for a procedure for demanding a jury trial in Marshall County.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 19 of Act No. 30, S. 5, 1963 Regular Session (Acts 1963, p. 404) is hereby amended to read as follows:

"Section 19.(A) All civil cases arising in said court shall be tried by the court without a jury, except the defendant of claimant in any case involving more than $250.00 and not arising under Chapter 3 of Title 31 of the Code of Alabama and not being a case of unlawful detainer or forceable entry and detainer, may within the time allowed for pleading, file with the clerk a written demand for trial by jury whereupon the clerk shall at once transfer the case to the Circuit Court of Marshall County where it shall be placed upon the jury docket.

Provided, however, that there shall accrue in said case costs for docketing it only in the circuit court.

"(B) In all criminal cases the court shall call each case for pleas at least two weeks before it is called for trial. The defendant in each criminal case may demand a trial by jury at any time up to and including the entry of his plea at such call. It shall not be necessary for a defendant to be present at such call if there is filed on his behalf a jury demand prior to the call. Neither shall the defendant's presence at such call be necessary if there is filed on behalf of the defendant at any time before arraignment a plea of not guilty. A defendant may orally request a trial by jury at the time of the call of the case for a plea which such request shall be noted by the trial court upon the bench notes and at all other times the demand for a trial by jury must be in writing. Upon the receipt of a demand for trial by jury as herein provided, the clerk shall at once transfer the case to the Circuit Court of Marshall County where it shall be placed upon the criminal jury docket. Provided, however, such cases so transferred shall accrue court costs for being docketed only in the circuit court.

"(C) Provided, however, the following cases shall not be transferred to the Circuit Court of Marshall County upon a jury demand but shall stand for trial in the County Court of Marshall County and be appealable to the circuit court as provided by the general laws of the State of Alabama:

"(1) Proceedings under Article 3 of Chapter 4 of Title 34 of the Code of Alabama of 1940 as recompiled in 1958 as now or as may hereafter be amended or recodified; and

"(2) Proceedings under Chapter 2A of Title 27 of the Code of Alabama of 1940 as recompiled in 1958 as now or as may hereafter be amended or recodified."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:20 P.M.

Act No. 971 H. 2066—Kinsey, Benton

AN ACT

To make it a misdemeanor to pick wild sea oats on the beaches of counties having populations of not less than 57,000 nor more than 61,000, according to the most recent federal decennial census.

Be It Enacted by the Legislature of Alabama:

Section 1. In order to preserve the wild sea oats on the beaches of counties having populations of not less than 57,000 nor more than 61,000, according to the most recent federal decennial census, it is hereby made unlawful and a misdemeanor for any person to pick wild sea oats on such beaches. Violation of this section shall be punishable by a fine of not more than fifty dollars.

Section 2. The Department of Conservation and Natural Resources is directed to erect signs on or near the beaches of such counties notifying the public that picking wild sea oats is illegal.

Section 3. This Act shall take effect on the first day of the first month following its enactment.

Approved September 5, 1973.

Time: 6:20 P.M.

Act No. 972 H. 2072—Crowe, Naramore

AN ACT

Applicable to any county having a population of not less than 55,500 nor more than 56,500 according to the last federal decennial census; to provide an additional compensation for the members of the board of registrars of such county.

Be It Enacted by the Legislature of Alabama:

Section 1. Each member of the board of registrars of any county having a population of not less than 55,500 nor more than 56,500 according to the last federal decennial census shall receive an additional compensation, which shall be paid from the general funds of such county, in an amount not to exceed $10 for each day such board meets, provided however, that the total compensation received by the members of the board of registrars of such county shall not exceed $20 for each day such board meets.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:20 P.M.

Act No. 973 H. 2075—Drake, St. John, McDonald

AN ACT

To provide for the payment of expense allowances to members of the Board of Registrars, Jury Commission, and Board of Equalization of any county having a population of not less than 50,000 nor more than 52,500 according to the last federal decennial census.

Be It Enacted by the Legislature of Alabama:

Section 1. Each of the members of the Board of Registrars, the Board of Equalization, and the Jury Commission of any county having a population of not less than 50,000 nor more than 52,500 according to the last federal decennial census shall receive an expense allowance in an amount such that the total compensation from all salaries or expense allowances payable by either the county or the state will be equal to $18.00 for each day actually served by such member in the discharge of duties as such member. Such expense allowance shall be paid from the general fund of the county in the manner provided for payment of salaries to such members.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 6:30 P.M.

Act No. 974 H.J.R. 166—Carnes, Waldrop, Wynot

HOUSE JOINT RESOLUTION

To name the new Coosa River Bridge to be built on Highway 77 at Southside, Alabama after State Senator Richard Malone.

WHEREAS, Senator Richard Malone has served his county, senatorial district, and state in many civic and public endeavors; and

WHEREAS, Senator Malone, as a member of the Alabama Senate, has sponsored and acquired both public and legislative support to provide for the building of a new Coosa River Bridge at Southside, Alabama for the enjoyment, convenience and betterment of the people of Etowah County; and

WHEREAS, the new Coosa River Bridge to be located in Senator Malone's home county of Etowah will provide great convenience and utility to the citizens of that county and the entire state; and

WHEREAS, it is fitting and appropriate, and desired by his fellow citizens of Etowah County, that some commemoration of Senator Malone's dedication and effort be made a part of the new Highway 77 Coosa River Bridge as a lasting reminder of his untiring work in bringing about the creation of that bridge;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, Both Houses Concurring, that the new Coosa River Bridge to be located on Highway 77 in Southside, Alabama, Etowah County, is hereby designated The Richard Malone Bridge, in honor of Senator Richard Malone;

BE IT FURTHER RESOLVED, that the Director of the State Highway Department is hereby authorized and directed to erect appropriate signs and markers along the above described bridge displaying the name hereby established.

Approved September 5, 1973.

Time: 6:45 P.M.

Act No. 975 H.J.R. 179—Drake, St. John, McDonald, Doss, Fite, Pruitt, Mathews, Lyons, McCorquodale, Slate

HOUSE JOINT RESOLUTION

EXPRESSING THE REGRET OF THE LEGISLATURE UPON THE DEATH OF BRYCE C. DAVIS.

WHEREAS the Legislature notes with sincere regret the recent death of an outstanding citizen of Alabama, Bryce C. Davis; and

WHEREAS Bryce C. Davis served his community and the State of Alabama in a distinguished and outstanding manner as chairman of the State ABC Board during the first term of Governor James E. Folsom and as a member of the House of Representatives where he was also chairman of the Ways and Means Committee; and

WHEREAS the members of the Legislature wish to honor the memory of this dedicated public servant; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we express our deep regret at the passing of Mr. Davis, and on behalf of the people of Alabama extend deep and sincere sympathy to the members of his family.

BE IT FURTHER RESOLVED That the Clerk of the House shall send a copy of this resolution to Mrs. Davis.

Approved September 5, 1973.

Time: 6:45 P.M.

Act No. 976 H.J.R. 183—Goodwin

HOUSE JOINT RESOLUTION

COMMENDING COLBERT COUNTY HIGH SCHOOL ON ITS OUTSTANDING SPORTS RECORD.

WHEREAS, Colbert County High School in Leighton, Alabama has compiled a truly amazing record in all sports events in the past few years; and

WHEREAS, under the leadership for the past 20 years of one of the top high school football coaches in the South, C. T. Manley, the "Indians" have compiled a remarkable record of 137 wins as against 37 losses and 7 ties. Coach Manley has led the team to 3 state championship playoffs in which the team finished 2nd in the state in 1967 and 1971 and in 1972 won the esteemed 3-A state championship; and

WHEREAS, the basketball team also has displayed great talent under the dynamic leadership of Coach Jim Rhodes. The high jumping and swift Indian basketball teams finished 2nd in the state 3-A championship in 1971 and came back to win the championship in 1972. The team record during these two years was 27 wins against 3 losses in 1971 and 33 wins against 1 loss in 1972 for a combined record of 60 wins against 4 losses; and

WHEREAS, the baseball team, not to be outperformed, has participated in 2 of the last 3 state playoffs and in 1973 finished 2nd in the state 3-A championship. This extremely commendable record was accomplished under the able leadership of Coach Bill Jarrett; and

WHEREAS, this type of sports record is to be commended and applauded as the games of sport parallel the game of life with its ups and downs. The extremely talented young men who aided in compiling this outstanding record reflect much honor to their community and state by their hard work and determination to succeed; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That

this body commends the outstanding record in the field of sports compiled by Colbert County High School and wishes to bestow recognition upon the brilliant coaches and athletes who made this record possible.

BE IT FURTHER RESOLVED, that the legislature wishes Colbert County High School continued success in its athletic endeavors, and that a copy of this resolution be sent to Colbert County High School.

Approved September 5, 1973.

Time: 6:45 P.M.

Act No. 977 H.J.R. 192—Doss, Erdreich, Weeks, Dill, Falkenburg, Wallace, Adwell, Boutwell, McNair, Waggoner, McMillan, Ellis, Boles, Bowers, Hughes, Meeks, Jones (E), McBride, Timmons, Gafford

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF MERVYN HAYDEN STERNE

WHEREAS, our creator, in his infinite wisdom, has seen fit to recall to his kingdom the soul of our beloved and distinguished friend, Mervyn Hayden Sterne. Mr. Sterne, age 81, was a leader in business and civic activities in Birmingham and the State; and

WHEREAS, Mervyn Sterne always conducted himself, both professionally and privately, in such a manner as to demonstrate those qualities of character which we would all do well to emulate; his dignity, integrity, ability and devotion to duty were of the highest quality; and

WHEREAS, he gave unselfishly of life and commitment to his state and his community. He was a successful investment banker, being the senior member of the investment banking firm of Sterne, Agee and Leach for over forty years. He was particularly helpful in making a market for the State of Alabama bonds; his firm having bought and sold more State of Alabama securities than any other investment firm in Alabama. Along with his other activities, he served on the board of directors of the Alabama By-Products Corporation, Birmingham; of the Ensley Company, Ensley, Alabama; of Avondale Mills, Sylacauga; of the Classe Ribbon Company; Ramsay-McCormack Land Company; Hayes International Corporation

and he served as Vice President and Director of the Alabama Chemical Products Company of Birmingham; and

WHEREAS, throughout his life he was active in civic and cultural affairs. He served as a Community Chest United Appeal board member and volunteer for over forty years. Merve Sterne built the Holy Family Hospital; was chairman of the Birmingham Library Board; was vice chairman of the Museum Board; was president of the United Jewish Fund and was a trustee at Birmingham-Southern College. In 1948, he served as chairman of the joint appeal fund-raising for Howard College and Birmingham-Southern College which exceeded its goal by one million dollars. During the 1960's, he undertook leadership of a fund-raising campaign for Miles College which, in 1973, honored him as the recipient of the school's "Outstanding Citizen's Award"; and

WHEREAS, Mervyn Hayden Sterne was a true Southern gentleman ever ready to contribute to the needs of his neighbors. His life serves as an example and guiding star for all our people; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That this body mourns the loss of one of Alabama's great citizens, Mervyn Hayden Sterne, and expresses its deepest sympathy to his family and loved ones.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to members of his family.

Approved September 5, 1973.

Time: 6:45 P.M.

Act No. 978 H.J.R. 194—Turnham

HOUSE JOINT RESOLUTION

COMMENDING E. L. STEWART

WHEREAS, Mr. E. L. Stewart has made immeasurable contributions to the fields of vocational education and extension farm agency in Randolph, Macon and Chambers Counties; and

WHEREAS, he has taught vocational education for eleven years in Chambers County and has twenty-nine years service in farm extension in Macon County; and

WHEREAS, he has influenced thousands of youths through his active involvements in such organizations as the Future Farmers of America, the 4-H Club, and coaching of public speaking within such organizations; and

WHEREAS, his accomplishments in vocational education include: teaching of home electrical wiring, landscaping, corn production programs, forestry planning, cotton farming improvements, the Chambers County Dairy Association, the Chambers County Beef Cattleman's Association, and other programs and organizations too various to mention; and

WHEREAS, this man has served in various capacities in the First Baptist Church of LaFayette as a deacon, Sunday School teacher, superintendent of department of Sunday School, choir member and other involvements in the church for many years; and

WHEREAS, his recent years of civic involvement have been in the Rotary Club, Union Hill and Fredonia Community Clubs; and

WHEREAS, this man's contributions over years in rural improvements and vocational agriculture are varied and indeed impressive; now therefore.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Mr. E. L. Stewart be highly commended for his accomplishments in the field of vocational agriculture and for the contributions he has made to the people of this state.

BE IT FURTHER RESOLVED That a copy of this resolution be sent to Mr. Stewart.

Approved September 5, 1973.

Time: 6:45 P.M.

Act No. 979 H.J.R. 197—Chesnut, Porter

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF THOMAS W. BRADFORD

WHEREAS, Thomas W. Bradford, age 89, of Centre, passed away recently; and

WHEREAS, Thomas W. Bradford was the son of Thomas W. and Louisa Willis Bradford, pioneer citizens of Cherokee County and the State of Alabama; and

WHEREAS, Thomas W. Bradford was the owner of Bradford-Cobb Insurance Agency; and

WHEREAS, Thomas W. Bradford was a member of Centre First United Methodist Church and served on the administrative board. He was a former trustee of the church and was a member of the Men's Adult Sunday School class; and

WHEREAS, Thomas W. Bradford was a former member of the Alabama State Legislature where, as a member of the Alabama State Senate, he sponsored the Bradford Act which established the State Labor Department; and

WHEREAS, Thomas W. Bradford served for 26 years as Cherokee County Register in Chancery; and

WHEREAS, Thomas W. Bradford was a former member and chairman of the Cherokee County Democratic Executive Committee serving for 24 years. He was also a former member of the Alabama Democratic Executive Committee; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That this body does mourn the passing of Thomas W. Bradford, and does send sincere condolences to the surviving members of his family.

Approved September 5, 1973.

Time: 6:45 P.M.

Act No. 980 H.J.R. 202—Carter, Cross

HOUSE JOINT RESOLUTION

GIVING TRIBUTE TO THE LIFE OF JAMES EDWIN HORTON, JR.

WHEREAS this body wishes to pay tribute to the life of James Edwin Horton, Jr. who passed away in 1972 after a long and distinguished legal and political career; and

WHEREAS James Edwin Horton, Jr. labored in the vineyard of the law after his graduation from Cumberland University Law School. He was appointed Chancellor of Circuit Judges in 1916 by Governor Charles Henderson. He was the senior partner of Horton and Patton from 1918 to 1922 and served as the Circuit Judge of Limestone, Morgan, Cullman and Lawrence Counties from 1922 to 1934; and

WHEREAS he contributed greatly to the political life of his time by serving on the County Democratic Committee for many years. His concern for his fellowmen led to service in the State Legislature. Mr. Horton served as a Representative from Limestone County from 1911 to 1915 whereon he served as the Senator from Limestone and Lauderdale Counties from 1915 to 1916. His activities in the Democratic Party led to participation in two national conventions, at Houston, Texas and Baltimore, Maryland; and

WHEREAS James Edwin Horton, Jr. was a true southern gentleman, and a genuine statesman, whose advice and counsel was sought by people in all walks of life; he was of a kindly disposition and devoted his life to the betterment of mankind; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That this body wishes to honor the memory of James Edwin Horton, Jr. as a member of that large body of good men who dedicate their lives to public service and to the general good of mankind.

BE IT FURTHER RESOLVED That a copy of this resolution be sent to members of his family.

Approved September 5, 1973.

Time: 6:45 P.M.

Act No. 981 H.J.R. 203—Smith (P)

HOUSE JOINT RESOLUTION

THANKING THOSE RESPONSIBLE FOR THE PORK PRODUCERS' BARBECUE

WHEREAS on Tuesday, August 14, the members of the Legislature and their staff were royally entertained with a delicious barbecue sponsored by the Alabama Pork Producers, a division of the Alabama Farm Bureau Federation; and

WHEREAS the Pork Producers presented a registered Yorkshire gilt, appropriately named "Fillibuster," to Senator George Lewis Bailes, Jr.; and

WHEREAS those responsible for the planning of the event, including Mr. Jack McGauhy, Mr. L. O. Bishop, and Mr. Milton Parsons, did an excellent job; and

WHEREAS a member of this body, Representative Maston Mims, and Mrs. Mims worked long and hard to prepare this excellent barbecue; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we heartily thank those responsible for this memorable event.

BE IT FURTHER RESOLVED, That copies of this resolution be sent to the Alabama Pork Producers' division of the Alabama Farm Bureau Federation, Mr. Jack McGauhy, Mr. L. O. Bishop, Mr. Milton Parsons and Representative and Mrs. Maston Mims.

Approved September 5, 1973.

Time: 6:45 P.M.

Act No. 982 H.J.R. 204—Turnham

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF MILLIGAN EARNEST

WHEREAS Milligan Earnest, 60, Opelika Postmaster and a prominent resident of the Farmville community, died recently; and

WHEREAS Milligan Earnest, a native of Birmingham, had lived in Lee County since he was six years old; and

WHEREAS Milligan Earnest was a former Lee County Commissioner, having been appointed to the post first in 1947 to fill a vacancy and served in this capacity until named Opelika postmaster 10 years ago; and

WHEREAS Milligan Earnest was a member of the Opelika Rotary Club and was very active in Farmville Baptist Church where he served as deacon for many years; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That this body mourns the sudden death of Milligan Earnest, and sends sincere condolences to the members of his family.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to Mrs. Margaret Bradley Earnest and family.

Approved September 5, 1973.

Time: 6:45 P.M.

Act No. 983 H.J.R. 205—Turnham

HOUSE JOINT RESOLUTION

COMMENDING DR. BURIS R. BOSHELL

WHEREAS Dr. Buris R. Boshell, Professor of Medicine, University of Alabama School of Medicine since 1964, has made outstanding contributions to mankind, particularly in the fields of research, diagnosis and treatment of diabetes, hypoglycemia and related diseases; and

WHEREAS Dr. Boshell, native of Bear Creek, Alabama, graduated from Phillips High School there, received his B.S. degree in Agricultural Science from Auburn University where he also had two years of veterinary medicine, had two years of medicine at the University of Alabama School of Medicine, and later studied at the Harvard Medical School, from which institution he received his M.D. degree in 1953; and

WHEREAS Dr. Boshell did both his internship and residency at the Peter Bent Brigham Hospital in Boston, Massachusetts, during two years of which time he was Research Fellow in Medicine at Harvard Medical School, and was subsequently made Chief Medical Resident Physician at Peter Bent Brigham, while fulfilling teaching appointments, including Assistant in Medicine, in conjunction with Harvard Medical School; and

WHEREAS the University of Alabama School of Medicine was indeed fortunate in 1959 in being able to add Dr. Boshell to its teaching staff where he has so ably filled positions of increasing responsibility; and

WHEREAS Dr. Boshell is the author of two books, has authored or co-authoried 69 publications and 21 abstracts, has contributed chapters in his specialized field to books of others; and has submitted additional treatises for publication in the future; and

WHEREAS Dr. Boshell holds membership in numerous professional and scientific societies, is a nationally recognized authority in his field, was named President, Alabama Diabetes Association, 1962-1963, was given the First Annual Ruth L. Hanson Award of the Lay Diabetes Association in 1965, and the Alumni Achievement Award from Auburn University Chapter, Omicrom Delta Kappa in 1968; and

WHEREAS Dr. Boshell is a breeder and exhibitor of Tennessee walking horses, is editor of the "Miniature Pinscher", is author of numerous articles on dogs, is a breeder of 75 Min Pin champions, is a licensed judge of the American Kennel

Club, and during 1971-1972 was invited to judge at 7 divergent places from Madison Square Garden to Sydney, Australia; and

WHEREAS Dr. Boshell and his most attractive wife, Martha Sue are the parents of two fine children Patricia, 15 and Thomas, 10; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we commend Dr. Boshell for his outstanding contributions to mankind and for his effective efforts to alleviate human suffering. We are grateful to him for his exhaustive research and study which have enabled him to transfer his knowledge through his prolific writings to his colleagues and through his teaching to physicians of the future; and we are particularly proud of the fact that he is a native son of Alabama to which state he chose to return.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to Dr. Boshell and to the University of Alabama School of Medicine.

Approved September 5, 1973.

Time: 6:45 P.M.

Act No. 984 H.J.R. 206—Grainger, King, Hearn, Hale

HOUSE JOINT RESOLUTION

WHEREAS, the Honorable Hartwell B. Lutz of Madison County has undertaken the exhaustive and important task of revising all Madison County local legislation passed by previous legislators as general bills of local application and has introduced 97 advertised local bills which appear on the House calendar for the 30th legislative day; now therefore,

BE IT RESOLVED BY THE HOUSE OF REPRESTNTATIVES, THE SENATE CONCURRING:

THAT, Representative Lutz is highly commended for his industry, resourcefulness, and responsible service.

Approved September 5, 1973.

Time: 6:45 P.M.

Act No. 985 H.J.R. 212—Kinsey

HOUSE JOINT RESOLUTION

WISHING MRS. ALICE J. DUCK "BEST WISHES" DURING HER RETIREMENT YEARS

WHEREAS, the lovely and gracious Mrs. Alice J. Duck, circuit clerk and register of Baldwin County, recently retired after a long and distinguished career in that esteemed public office; and

WHEREAS, the always pleasant Mrs. Duck was ever ready to render service to anyone who came within jurisdiction of the duties of her office. She was known far and wide for her unyielding patience; and

WHEREAS, in 1946 she became the first appointed circuit clerk and register of Baldwin County when she was appointed to fill the unexpired term of her late husband. She ran for this esteemed public office and was elected in November 1952, and served diligently until her retirement in 1970; and

WHEREAS, Mrs. Duck by reason of her education, training, experience, innate abilities and temperament was admirably equiped to fill this most difficult administrative position and to cope with the ceaseless day-by-day problems with which she was faced; and

WHEREAS, she demonstrated a sensivity and responsiveness far above the average individual and was ever ready to contribute to the needs of her neighbors and for the progress and betterment of those with whom she came in contact; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That this body wishes to express its deepest appreciation of her years of unselfish devotion to duty, and wishes for her many happy years of retirement in which to enjoy the leisure which she so richly deserves.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to Mrs. Duck.

Approved September 5, 1973.

Time: 6:45 P.M.

Act No. 986 H.J.R. 213—Turnham

HOUSE JOINT RESOLUTION

COMMENDING JOHN RUSSELL PARRISH

WHEREAS, John Parrish, a Chilton County native, received his undergraduate and M.S. degrees in Vocational Agriculture and Animal Science from Auburn University and later

served in Covington, Dale and Randolph Counties as vocational agriculture teacher, assistant county agent and county agent; and

WHEREAS, his various community accomplishments and vocational agriculture teaching programs have been cited in the **Saturday Evening Post**; and

WHEREAS, he has been an Extension Dairyman since 1948, developed dairy program in Randolph County, aided in State Calf Raising System; and

WHEREAS, he assisted in organizing the Farm Bureau Dairy Committee, American Dairy Association of Alabama, and Pesticide Testing programs; and

WHEREAS, he has supervised 22 educational trips in the U.S. and Canada involving hundreds of participating young people of the state; and

WHEREAS, he is now active in the Parkway Baptist Church as a deacon, trustee, chairman of finance committee, and superintendent of Adult Sunday School; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That this body recognizes and commends the accomplishments of Mr. John Russell Parrish.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to Mr. Parrish.

Approved September 5, 1973.

Time: 6:45 P.M.

Act No. 987 H.J.R. 214—Goodwin

HOUSE JOINT RESOLUTION

COMMENDING COLBERT COUNTY HIGH SCHOOL ON ITS OUTSTANDING SPORTS RECORD.

WHEREAS, Colbert County High School in Leighton, Alabama has compiled a truly amazing record in all sports events in the past few years, and

WHEREAS, under the leadership for the past 20 years of one of the top high school football coaches in the South, C. T. Manley, the "Indians" have compiled a remarkable record of 137 wins as against 58 losses and 7 ties. Coach Manley has led

the football team to championship playoffs in 1967, 1971, and 1972, finishing 2nd in the state in 1967 and in 1973 winning the esteemed 3-A State Championship; and

WHEREAS, the basketball team also has displayed great talent in recent years. The high jumping and swift Indian basketball teams finished 2nd in the State 3-A Championship in 1971, and came back to win the championship in 1972. The team record during these two years was 27 wins against 3 losses in 1971 and 33 wins against 1 loss in 1972 for a combined record of 60 wins against 4 losses. In 1973, under the dynamic leadership of Coach Jim Rhodes, the team captured the Holiday Invitational Championship, County Championship, and Area Championship enroute to a 24-4 record; and

WHEREAS, the baseball team, not to be outperformed has participated in 2 of the last 3 state playoffs and in 1973, under the able leadership of Coach Bill Jarrett, finished 2nd in the State 3-A Championship; and

WHEREAS, this type of sports records is to be commended and applauded as the games of sport parallel the game of life with its ups and downs. The extremely talented young men who aided in compiling this outstanding record reflect much honor to their community and state by their hard work and determination to succeed;

NOW THEREFORE BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That this body commends the outstanding record in the field of sports compiled by Colbert County High School and wishes to bestow recognition upon the brilliant coaches and athletes who made this record possible.

BE IT FURTHER RESOLVED, that the Legislature wishes Colbert County High School continued success in its athletic endeavors, and that a copy of this resolution be sent to Colbert County High School.

Approved September 5, 1973.

Time: 6:45 P.M.

Act No. 988 H.J.R. 215—Turnham

HOUSE JOINT RESOLUTION

HONORING COMPANY C, FIRST BATTALION, 20TH SPECIAL FORCES GROUP (AIRBORNE) OF THE FIRST SPECIAL FORCES.

WHEREAS, a composite team from Company C, First Battalion, 20th Special Forces Group (Airborne) of the First Special Forces recently scored highest of all reserve and national guard from throughout the United States in competition in Germany; and

WHEREAS, three teams from Company C recently completed an area assessment of the Boise National Forest in Idaho, conducting themselves in the finest tradition of the military; now

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we heartily congratulate Company C for its achievements.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to the commanding officer of Company C.

Approved September 5, 1973.

Time: 6:45 P.M.

Act No. 989 H.J.R. 216—Waggoner, Falkenburg

HOUSE JOINT RESOLUTION

DESIGNATING MR. BOB CAIN AND THE CANE-BREAKERS AS THE OFFICIAL BAND OF THE 1973 ALABAMA LEGISLATURE.

WHEREAS the enjoyment of the party recently given by the Jefferson County Legislative Delegation was greatly enhanced by the music of the Cane-Breakers under the skillful and artful direction of Bob Cain, the Head Cane Cutter; and

WHEREAS Bob Cain who was born in Hartselle, graduated from the University of Alabama with a major in political science, is married to Penny Vann, a native of Birmingham, and they are the justifiably proud parents of two adorable children, Lacey aged 3½ and Lyle aged 2; and

WHEREAS Bob Cain has been in the same location in Birmingham with his own night club, "The Cane-Break", for 8½ years and prior to owning and operating his own "Canebreak", played at many other locations, including New Orleans and Las Vegas; and

WHEREAS the piano is Bob's "Thing", he also excels on the trumpet and has a wonderful voice which he not only uses in beautiful song, but also to express his wit and humor; and

WHEREAS Mr. Cain is an impresario with God-given talent that has earned for him a world-wide reputation for entertainment; and

WHEREAS Bob Cain represents his community in an exceptional manner both as a musician and as a citizen; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we commend Bob Cain and The Cane-Breakers for their outstanding talents and ability and wish to thank them for providing us with such delightful entertainment.

BE IT FURTHER RESOLVED, That Mr. Bob Cain and The Cane-Breakers be designated the "Official Band of the 1973 Alabama Legislature.

RESOLVED FURTHER, That copies of this resolution be sent to Mr. Bob Cain and The Cane-Breakers.

Approved September 5, 1973.

Time: 6:45 P.M.

Act No. 990 H.J.R. 217—Bassett, Hardin

HOUSE JOINT RESOLUTION

COMMENDING THOMAS HAROLD ESPY FOR HIS WORK WITH THE STATE HIGHWAY DEPARTMENT.

WHEREAS Thomas Harold Espy has recently retired after 40 years of service in the State Highway Department; and

WHEREAS Mr. Espy began his service with the Highway Department as a rodsman in 1923 and became Division Engineer for the Seventh Division in 1940; and

WHEREAS during his years of service to the Highway Department and to this state and its people Mr. Espy has been a dedicated, conscientious and diligent employee; and

WHEREAS the Legislature of this state wishes to honor and commend Mr. Espy upon his retirement from an outstanding career of service to the state; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Thomas Harold Espy is hereby commended for his service to this state, and the gratitude of the people of the state and the

good wishes of the Legislature are extended to Mr. Espy upon his retirement.

BE IT FURTHER RESOLVED, that the Clerk of the House cause a copy of this resolution to be sent to Mr. Espy.

Approved September 5, 1973.

Time: 6:45 P.M.

Act No. 991 H.J.R. 225—Kinsey

HOUSE JOINT RESOLUTION

COMMENDING WILLIAM B. COOPER OF ROSINTON FOR HIS DILIGENT AND DEDICATED SERVICE TO THE PEOPLE OF BALDWIN COUNTY.

WHEREAS, William B. Cooper, a native of Rosinton, has served the people of Baldwin County with honor and dignity for over two decades. He served on the County Commission from 1949 to 1957 and from 1965 to the early part of 1973 performing as Chairman of the County Commission; Road and Bridge Commissioner and County Finance Commissioner; and

WHEREAS, during his sixteen years as a member of the Baldwin County Commission he was instrumental in establishing an extensive farm to market road program. He also provided the rural people of the county with the conveniences of sub-courthouses for the purposes of assessing and paying taxes and the purchasing of tags and licenses; and

WHEREAS, this marvelous, friendly man contributes immeasurably to the civic life of his community. He is a Mason, a Shriner, Rotarian and a member of several hunting clubs. This emissary of good will is noted for his great love for and participation in sports; and

WHEREAS, he is a devoted father to his eight wonderful children and takes a deep interest in the Rosinton Church of Christ. A highly successful businessman, he has been in the retail merchandising business since 1946; and

WHEREAS, William B. Cooper is a true southern gentleman, and a genuine statesman, whose advice and counsel is sought by people in all walks of life. His kindly disposition and devotion to the betterment of his people has reflected much honor upon himself and his native state; now therefore;

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That

we pay tribute to a great and loved Alabamian, William B. Cooper, as a representative of that body of great men whose sensitivity to the needs of their fellow human beings and dedication to public service and the general good of mankind has reflected much honor not only upon themselves but upon their native State;

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to Mr. Cooper.

Approved September 5, 1973.

Time: 6:45 P.M.

Act No. 992 H.J.R. 226—Reynolds, Goodwin

HOUSE JOINT RESOLUTION

MOURNING DEATH OF GEORGE HAMMERLY COPELAND

WHEREAS, George Hammerley Copeland has recently died; and

WHEREAS, he received his law degree from the University of Oklahoma where he was captain of the debate team and was partnered with Carl Albert, present Speaker of the U. S. House of Representatives; and

WHEREAS, his political and government service career includes: Assistant Attorney General for the State of Oklahoma, 1931-1932; member of Oklahoma Legislature, 1932-1934; Federal Agent of Internal Security Officer for U. S. Department of State, 1934-1964; Executive Director of Downtown Florence, 1965-1968; and Probate Judge of Colbert County, 1970-1973; and

WHEREAS, George Copeland maintained a residence in Colbert County for 36 years and was admired and respected in that county and was a member of the Sheffield Kiwanis Club and First Methodist Church of Tuscumbia; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That this body expresses its sincere regrets upon his death and do deeply honor his memory, extending sympathy to the surviving members of his family.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to the surviving members of his family.

Approved September 5, 1973.

Time: 6:45 P.M.

Act No. 993 H.J.R. 227—Headley

HOUSE JOINT RESOLUTION

EXPRESSING THE REGRET OF THE LEGISLATURE UPON THE DEATH OF MR. R. C. WILLIAMS

WHEREAS, R. C. Williams, civic, church, business and community leader of Clanton, Alabama passed away on June 17, 1973, after a lifetime of devoted service to his city, county, and state; and

WHEREAS, Mr. Williams has served the City of Clanton in many capacities for over twenty-five years, including as councilman, and a member of the Clanton Industrial Board; and

WHEREAS, Mr. Williams' participation in the First United Methodist Church of Clanton, and in the community's civic affairs, added to the respect accorded him; and

WHEREAS, Mr. Williams was a veteran of World War I, a member of Veterans of Foreign Wars, a member of the American Legion, Kiwanis, bond drive chairman, past president of Chilton County Chamber of Commerce, a leader of other charitable drives, and an active member of Alabama Petroleum Jobbers Association; and

WHEREAS, the community will miss the inspiration and leadership of R. C. Williams, now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we mourn the death of Robert Carlos Williams to whom this state is deeply indebted. We extend our sympathy to his wife Myra Williams, to his two daughters, Lynn McKinnon and Fay Monk, to his grandchildren, and to his brother John Spurgeon Williams.

BE IT FURTHER RESOLVED, That copies of this resolution be sent to the surviving members of Mr. Williams' family.

Approved September 5, 1973.

Time: 6:45 P.M.

Act No. 994 H.J.R. 231—Connell

HOUSE JOINT RESOLUTION

COMMENDING JOHN SCOTT OF THE CAPITOL SECURITY FORCE FOR HIS EXCELLENT ATTITUDE IN THE PERFORMANCE OF HIS DUTIES

WHEREAS, John Scott, a member of the Capitol Security force, has performed his duties as security guard in the lower parking lot with a cheerful smile and friendly wave to everyone who crosses his path; and

WHEREAS, he is an excellent security guard whose daily performance reflects much credit to himself and the State Capitol Security force. He is ever ready to offer a helping hand to any one who comes within his jurisdiction; and

WHEREAS, John Scott has performed his duties cheerfully in rain, sun, sleet and snow. This big, marvelous, hulking man has brightened many state employees' morning with his cheerful dialogue; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we commend John Scott for the excellent job which he performs as a Capitol Security guard and for his marvelous outlook on life.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to John Scott.

Approved September 5, 1973.

Time: 6:45 P.M.

Act No. 995 H.J.R. 241—Jones, Taylor, Barron, Hobbie, Harris

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF MRS. IRENE WELCH OF MONTGOMERY

WHEREAS, this legislature is saddened by the recent death of Mrs. Irene Welch of Montgomery. She was the lovely and gracious wife of the House of Representatives doorkeeper, Mr. Bill Welch; and

WHEREAS, she contributed immeasurably to the civic life of her community. Among her many interests were active membership in the Eastern Star, White Shrine and Court Amaranth; and

WHEREAS, this marvelous lady had a deep sensitivity toward her fellow citizens. She was ever ready to contribute her efforts toward a worthy cause; now therefore;

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That

we mourn the death of a lovely and gracious lady, Mrs. Irene Welch of Montgomery, and that we extend our heartfelt sympathy to her family and friends.

BE IT FURTHER RESOLVED That a copy of this resolution be sent to her husband, Mr. Bill Welch.

Approved September 5, 1973.

Time: 6:45 P.M.

Act No. 996 H. 1845—Carnes, Wynot, Waldrop

AN ACT

Relating to counties having a population of not less than 90,000, nor more than 100,000, according to the most recent federal decennial census; to impose certain additional privilege or license taxes upon the sale of malt or brewed beverages in certain areas of said counties, and to provide for the collection and distribution of said taxes.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall apply only in counties having a population of not less than 90,000, nor more than 100,000, according to the most recent federal decennial census.

Section 2. In all such counties, there is hereby imposed, in addition to all other taxes otherwise imposed, the following privilege or license taxes upon the sale of malt or brewed beverages:

a) 2¢ privilege or license tax upon each can, bottle, or other container of malt or brewed beverage sold outside the city or town limits and outside the police jurisdictions of all municipalities located in such counties.

b) 1¢ privilege or license tax upon each can, bottle, or other container of malt or brewed beverages sold outside the city or town limits but within the police jurisdictions of municipalities located in such counties.

to be paid by every person, firm, corporation, copartnership, club, association, agency, distributor, storer or user of such malt or brewed beverages; provided, however, that when the amount of the taxes hereby imposed has been paid by any seller, distributor, dealer, user, other person or entity, such payment shall be sufficient, the intent being that the taxes hereby levied shall be paid but once.

Section 3. The taxes hereby levied are for the benefit of the governing bodies of such counties. Said taxes shall be collected in the same manner as other privilege or license taxes upon the sale of malt or brewed beverages in such counties, and the revenue realized hereby shall be paid into the general funds of such counties.

Section 4. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. All laws or parts of laws which conflict with this act are repealed.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on September 6, 1973 without approval by the Governor.

Act No. 997 H. 400—Flippo, Lyons

AN ACT

Relating to the practice of public accounting; to regulate the practice of public accounting; to create a State Board of Public Accountancy and to provide for its membership and to prescribe its powers and duties; to provide for the regulation, examination, investigation, registration, issuance of certificates and permits, and for the revocation or suspension of certificates, registrations, and permits; to provide fees and charges and for expenses of said Board, making appropriations, prescribing penalties for violations of the Act, and repealing conflicting laws.

Be It Enacted by the Legislature of Alabama:

Section 1. NAME. This Act may be cited as the "Public Accountancy Act of 1973."

Section 2. BOARD OF PUBLIC ACCOUNTANCY

(1) There is hereby created a board of public accountancy in and for the State of Alabama, to be known as the Alabama State Board of Public Accountancy. The Board shall consist of seven members, appointed by the Governor. Members of the board shall be citizens of the United States and residents of the State. The five members of the present Alabama State Board of Public Accountancy shall be appointed by the Governor to the Board hereby created, one for one year, one for two years, one for three years, and two for four years. The Governor shall designate the term of each appointee. The

Governor shall, in addition, the first year, appoint to the Board two Public Accountants who hold licenses to practice public accountancy issued under the laws of this State and who are in active practice as public accountants to four year terms, thereby enlarging the Board to seven members. Such persons and their successors shall constitute the Board of Public Accountancy and shall have and exercise all the powers and authority vested by law in said Board.

(2) The effective date of the above appointments shall be October 1, 1973. All subsequent appointments shall be effective on October 1, for four year terms, unless an appointment is made for an unexpired term.

(3) The Board shall after twelve years following the effective date of this act be reduced to six members, composed of five Certified Public Accountants, and one Public Accountant and after sixteen years following the effective date of this act, the Board shall be reduced to five members composed entirely of Certified Public Accountants who are selected as hereinafter provided.

(4) The Alabama Society of Certified Public Accountants shall, at least thirty days prior to the beginning of any term, or within thirty days after any position on the Board becomes vacant, submit to the Governor the names of five persons qualified for membership on the Board for each Certified Public Accountant position to be filled, and the Governor shall appoint one of the five. Should the Alabama Society of Certified Public Accountants fail to submit timely nominations for a position on the Board of Public Accountancy, then the Board of Public Accountancy may forthwith submit nominations for the position to the Governor, who shall appoint one of the five nominees.

(5) The Alabama Association of Public Accountants shall at least thirty days prior to the beginning of any term, or within thirty days after any position on the Board becomes vacant, submit the names of five persons qualified for membership on the Board for each Public Accountant position to be filled and the Governor shall appoint one of the five. Should the Alabama Association of Public Accountants fail to submit timely nominations for a position on the Board of Public Accountancy, then the Board of Public Accountancy may forthwith submit nominations for the position to the Governor, who shall appoint one of the five nominees.

(6) No person who has served two successive complete terms on the Board shall be eligible for reappointment until after the lapse of one year. Appointment to fill an unexpired term is not to be considered as a complete term. Vacancies

occurring during a term shall be filled by appointment for the unexpired term. Upon the expiration of his term of office, a member shall continue to serve until his successor shall have been appointed and shall have qualified. Within 15 days after their appointment the members of said Board shall take an oath before any person lawfully authorized to administer oaths in this State, to faithfully and impartially perform their duties as members of said Board, and the same shall be filed with the Secretary of State. The Governor shall remove from the Board any member whose permit to practice has become void, or has been revoked or suspended, and may, after hearing, remove any member of the Board for neglect of duty or other just cause.

(7) The Board shall elect annually a chairman, a Vice-Chairman, and a Secretary-Treasurer, from its members.

(8) The Board may adopt, and amend from time to time, Rules and Regulations for the orderly conduct of its affairs and for the administration of this act.

(9) A majority of the Board shall constitute a quorum for the transaction of business.

(10) The Board shall have a seal which shall be judicially noticed.

(11) The Board shall keep records of its proceedings, and in any proceeding in Court, civil or criminal, arising out of or founded upon any provision of this Act, copies of said records certified as correct under the seal of the Board shall be admissible in evidence as tending to prove the content of said records.

(12) The Board shall have printed and published for distribution an annual register which shall contain the names, arranged alphabetically by classification, of all practitioners holding permits to practice under this Act; the names of the members of the Board; and other such matters as may be deemed proper by the Board.

(13) The Board may employ such personnel and arrange for such assistance, services, and supplies as it may require for the performance of its duties.

(14) The Board may promulgate, and from time to time amend, rules of professional conduct appropriate to establish and maintain a high standard of integrity in the profession of Public Accountancy. At least sixty days prior to the promulgation of any such rule or amendment, the Board shall mail copies of the proposed rule or amendment to each holder of a permit issued under section 10, of this Act, with a notice ad-

vising him of the proposed effective date of the rule or amendment and requesting that he submit his comments thereon at least fifteen days prior to such effective date; such comments shall be advisory only. Failure to receive by mail such rule, amendment or notice by all permit holders shall not affect the validity of any such rule or amendment.

(15) Out of the funds of the Board, each member of the Board shall be paid the sum of Fifty Dollars ($50.00) for each day he is actively engaged in the discharge of his duties as a member of the Board, and, shall, also, be paid actual necessary expenses incurred in the discharge of his duties.

Section 3. CERTIFIED PUBLIC ACCOUNTANTS

(1) The certificate of "Certified Public Accountants" shall be granted by the Board to any person

(a) who is a citizen of the United States or has duly declared his intent to become such citizen, and

(b) who is a resident of this State or practices public accounting herein, or, as an employee is regularly employed herein, and

(c) who has attained the age of twenty-one years, and

(d) who is of good moral character, and

(e) who meets the requirements of education and experience as herein provided:

(i) Education — a person must have earned a college degree from a four-year college or university accredited by a regional accreditation board such as the Southern Association of Colleges and Universities, and,

(ii) Experience — A person shall have acquired two years of public accounting experience satisfactory to the Board; and

(f) who has successfully passed a written examination, administered by the Board, in accounting theory, in accounting practice, in auditing, in business law, in professional ethics, and in such other related subjects as the Board may deem necessary to maintain the highest standard of proficiency in the profession of public accounting.

(2) (a) Examinations provided for herein shall be given by the Board as often as may be necessary in the opinion of the Board, but not less frequently than twice each year. The Board shall be required after each examination to notify applicants of the results. (b) The Board shall have power and authority to issue certificates under the signature and the official seal of the Board, as provided in this Act.

(3) The Board shall charge each candidate an application fee not in excess of one hundred dollars. Examination and re-examination fees shall be charged by the Board in amounts determined by it for each subject in which a candidate is examined. The applicable fees shall be paid to the Board by the candidate at the time he applies for examination or re-examination.

(4) Persons who, on the effective date of this Act, held Certified Public Accountant certificates theretofore issued under the laws of this State shall not be required to obtain additional certificates under this Act, but shall otherwise be subject to all provisions of this Act; and such certificates theretofore issued shall, for all purposes, be considered certificates issued under this Act and subject to the provision hereof.

(5) The Board may, in its discretion, waive the examination under (1-f) above, and may issue a certificate as a "Certified Public Accountant" to any person possessing the qualifications specified in subsections (1-a), (1-b), (1-c), and (1-d) hereof, and what the Board determines to be substantially the equivalent of the applicable qualifications under subsection (1-e) hereof, who is the holder of a certificate as a Certified Public Accountant, then in full force and effect, issued under the laws of any State, or is the holder of a certificate, license, or degree which is then in full force and effect in any foreign country constituting a recognized qualification for the practice of public accounting in such country, comparable to that of a Certified Public Accountant of this State.

(6) For the purposes of Section 3 of this Act, the Board means only those members of the Board who are Certified Public Accountants.

Section 4. REGISTRATION OF FOREIGN ACCOUNTANTS

The Board may, in its discretion, and upon application and the payment of an initial registration fee not in excess of one hundred dollars, permit the registration of any person with good moral character who is the holder of a certificate, license, or degree in a foreign country constituting a recognized qualification for the practice of public accounting in such country. A person so registered shall use only the title under which he is generally known in his own country, followed by the name of the country from which he received his certificate, license or degree.

Section 5. PARTNERSHIP, PROFESSIONAL ASSOCIATION OR PROFESSIONAL CORPORATION COMPOSED OF CERTIFIED PUBLIC ACCOUNTANTS — REGISTRATION THEREOF

(1) A partnership, professional association or professional corporation engaged in the State in the Practice of Public Accounting may register with the Board as a partnership or professional association or professional corporation of Certified Public Accountants provided it meets all the following requirements:

(a) At least one general partner or shareholder thereof must be a Certified Public Accountant of this State in good standing.

(b) Each partner or shareholder thereof regularly engaged within this State in the practice of public accounting as a member thereof must be a Certified Public Accountant of this State in good standing except as provided in (e) below.

(c) Each partner or shareholder thereof in the United States must be a Certified Public Accountant of some state in good standing.

(d) Each resident manager in charge of an office of a firm in this State whose main office is outside this State must be a Certified Public Accountant of this State in good standing except as provided in (e) below.

(e) Partners or resident managers transferring into Alabama will be required to obtain an Alabama certificate within twenty-four (24) months from date of such transfer.

(2) Application for registration must be made upon the affidavit of a general partner of such partnership or an officer of such professional association or professional corporation who is a Certified Public Accountant of this State in good standing. The Board shall in each case determine whether the applicant is eligible for registration. A partnership, professional association or professional corporation which is so registered and which holds a permit issued under Section 10 of this Act may use the words "Certified Public Accountants" or the abbreviation "C.P.A.'s" in connection with its partnership, professional association or corporate name. Notification shall be given the Board, within one month, after the admission to or withdrawal of a partner from any partnership or a shareholder from any professional association or professional corporation so registered.

Section 6. TEMPORARY ANNUAL PERMITS—CERTIFIED PUBLIC ACCOUNTANTS

The Board may, in its discretion, issue temporary annual permits to holders of valid and unrevoked certificates as Certified Public Accountants under the laws of other states, who are not residents of the State of Alabama, for the purpose

of enabling such persons to fulfill specific accounting engagements or employments, the contracts for which were entered into outside of Alabama. The annual fee for issuance of the permits shall be determined by the Board. The Board shall adopt rules and regulations providing for the issuance and revocation of said permits and the regulation of permit holders.

Section 7. PUBLIC ACCOUNTANTS — REGISTRATION THEREOF

Written evidence of registration as "Public Accountants" shall be issued to:

A. Any person (a) who is a resident of this State, or practices accounting herein and (b) who has attained the age of twenty one years, and (c) who is of good moral character and a citizen of the United States or has declared his intent to become a citizen, and (d) who meets the requirements of subdivision (1) or (2) or (3) or (4) of this section may, upon payment of an initial registration fee to be fixed by the Board, register with the Board as a Public Accountant on or before the first day of October, 1974:

(1) Persons who hold themselves out to the public as Public Accountants and who are engaged as principals, (as distinguished from employees), within this State at the effective date of this Act in the practice of public accounting as their principal occupation.

(2) Persons serving in the Armed Forces of the United States of America at the effective date of this Act who immediately prior to entering such service held themselves out to the public as Public Accountants and were engaged as principals, (as distinguished from employees), within this State, in practice of public accounting as their principal occupation. In the case of any such person, the time for registration shall be extended for a period of twelve months from the time such person is separated from active duty.

(3) Staff accountants employed in this State by Certified Public Accountants or by Public Accountants and regularly assigned to accounting engagements at the effective date of this Act.

(4) Upon payment of a fee to be fixed by the Board, an employee of a department, agency, or instrumnetality of the United States, this State, or a political subdivision of this State, whose work at the effective date of this Act involves accounting or auditing activities of a type which in the opinion of the Board is the equivalent of public accounting work, may file with the Board a declaration that he intends to register

as a Public Accountant on or before a specified later date pursuant to the provisions of this Section, and upon such later specified date the Board, after investigation and determination of eligibility as provided hereinafter in this section, shall so register him as a Public Accountant.

(5) The Board shall in each case determine whether an applicant is eligible for registration. Any individual who is so registered and who holds a permit issued under Section 10 of this Act shall be styled and known as a "Public Accountant."

B. From October 1, 1974 to October 1, 1978, any person (a) who is a resident of this state, and (b) who has attained the age of twenty-one years, and (c) who is of good moral character and a citizen of the United States or has declared his intent to become a citizen, upon payment of an initial registration fee to be fixed by the Board may register with the Board as a public accountant provided that he has received a college degree with a major in accounting from a four year college accredited by a Regional Accreditation Board such as the Southern Association of Colleges and Universities, or who shall have passed written examinations covering the subjects of theory of accounting, practical accounting, auditing, commercial law as affecting accountancy and the professional ethics of public accountants. The examinations shall be conducted by the Board semi-annually and the papers graded in a uniform manner. The questions used in all sections of the examination shall adhere to the standards established by the National Society of Public Accountants. A passing grade of seventy-five percent is required for registration. Examination fees shall be set by the Board.

Section 8. PARTNERSHIP, PROFESSIONAL ASSOCIATION OR PROFESSIONAL CORPORATION COMPOSED OF PUBLIC ACCOUNTANTS—REGISTRATION THEREOF

(1) A partnership, professional association or professional corporation in the State in the practice of public accounting may register with the Board as a partnership, professional association or professional corporation of Public Accountants provided each partner or shareholder thereof must be a Certified Public Accountant or Public Accountant of this State in good standing.

(2) Application for registration must be made upon the affidavit of a general partner of such partnership or an officer of such professional association or professional corporation who is a Certified Public Accountant or Public Accountant of this State in good standing. The Board shall in each case determine whether the applicant is eligible for registration. A partnership, professional association or professional corpora-

tion which is so registered and which holds a permit issued under Section 10 of this Act may use the words "Public Accountants" or the abbreviations "P.A.s" in connection with its partnership, professional association or professional corporation name. Notification shall be given the Board, within one month, after the admission to or withdrawal of a partner from any partnership or a shareholder from any professional association or professional corporation so registered.

Section 9. REGISTRATION OF OFFICES

Each office established or maintained in this State for the practice of Public Accounting in this State by a Certified Public Accountant or partnership or professional association or professional corporation of Certified Public Accountants or by a Public Accountant, or partnership or professional association or professional corporation of Public Accountants, or by one registered under Section 4 shall be registered annually under this Act with the Board, but no fee shall be charged for such registration. Each such office shall be under the direct supervision of a resident manager who may be either a principal, shareholder or a staff employee holding a permit under Section 10 of this Act, which is in full force and effect; provided, that the title or designation "Certified Public Accountant" or the abbreviation "C.P.A." shall not be used in connection with such office unless such resident manager is the holder of a certificate as a Certified Public Accountant under Section 3 of this Act and a permit issued under Section 10 of this Act, both of which are in full force and effect. Such resident manager may serve in such capacity at one office only. The Board shall by regulation prescribe the procedure to be followed in effecting such registrations.

Section 10. ANNUAL PERMITS TO PRACTICE

(a) Permits to engage in the practice of public accounting in this State shall be issued by the Board to holders of certificates of certified public accountant issued under section 3 of this Act and to persons registered under Section 7 of this Act who shall have furnished evidence satisfactory to the Board of compliance with the requirements of Subsection (b) of this section, and to persons, partnerships, professional association or professional corporations registered under Sections 4, 5, and 8, of this Act; provided all offices of such certificate holders or registrants are maintained and registered as required under Section 9 of this Act. There shall be an annual permit fee for each certificate holder under Section 3 and each registrant under Sec. 7 in an amount to be determined by the Board. All permits shall expire on the last day of September of each year and may be renewed annually

for a period of one year by certificate holders and registrants in good standing upon payment of the annual renewal fee. Failure of a certificate holder or registrant to apply for such annual permit to practice within (a) three years from the expiration date of the permit to practice last obtained or renewed, or (b) three years from the date upon which the certificate holder or registrant was granted his certificate or registration if no permit was ever issued to him, shall deprive him of the right to such permit, unless the Board, in its discretion, determines such failure to have been due to reasonable cause. In such case the renewal fee or the fee for the issuance of the original permit, as the case may be, shall be such amount as the Board shall determine.

(b) After the expiration of the three year period immediately following the effective date of Board regulations establishing requirements of continuing education, every application for renewal of an annual permit to practice by any person who has held a certificate as a Certified Public Accountant for three years or more or who has been a registrant under Section 7 of this Act for 3 years or more shall be accompanied or supported by such evidence as the Board shall prescribe of satisfaction of such requirements during the last three years preceding the application. Failure by an applicant for renewal of an annual permit to furnish such evidence shall constitute ground for revocation, suspension or refusal to renew such permit in a proceeding under Section 11. of this Act, unless the Board, in its discretion, shall determine such failure to have been due to reasonable cause. The Board in its discretion, may renew an annual permit to practice despite failure to furnish evidence of satisfaction of requirements of continuing education upon condition that the applicant follow a particular program or schedule of continuing education. In issuing rules, regulations and individual orders in respect of requirements of continuing education, the Board, in its discretion, may, among other things, use and rely upon guidelines and pronouncements of recognized educational and professional associations; may prescribe for content, duration and organization of courses; shall take into account the accessibility by applicants to such continuing education as it may require and any impediments to interstate practice of public accountancy which may result from difference in such requirements in other states; and may provide for relaxation or suspension of such requirements in regard to applicants who certify that they do not intend to engage in the practice of public accountancy, and for instances of individual hardship.

Section 11. REVOCATION OR SUSPENSION OF CERTIFICATE, OR REGISTRATION, OR PERMIT

After notice and hearing as provided in Section 13 of this Act, the Board may revoke, or may suspend for a period not to exceed three years, any certificate issued under Section 3 of this Act, or any registration granted under Sections 4, 6, or 7 of this Act, or may revoke, suspend, or refuse to renew any permit issued under Section 10 of this Act, or may censure the holder of any such permit, for any one or any combination of the following causes:

(a) Fraud or deceit in obtaining a certificate as a Certified Public Accountant or in obtaining registration under this act or in obtaining a permit to practice public accounting under this Act.

(b) Dishonesty, fraud or gross negligence in the practice of public accounting.

(c) Violation of any of the provisions of Section 15 of this Act.

(d) Violation of a rule of professional conduct promulgated by the Board under the authority granted by this Act.

(e) Conviction of any crime, an element of which is dishonesty or fraud, under the laws of any State or of the United States.

(f) Conviction of a felony under the laws of any State or of the United States.

(g) Cancellation, revocation, suspension, or refusal to renew authority to practice as a Certified Public Accountant or a Public Accountant by any other State, by any other State, for any cause other than failure to pay an annual registration fee in such other State.

(h) Suspension or revocation of the right to practice before any State or Federal Agency.

(i) Failure to become a citizen of the United States within six years by any person not a citizen of the United States when he or she received a certificate as a Certified Public Accountant or was registered as a Public Accountant under this Act.

(j) Failure (1) of a certificate holder or registrant to obtain an annual permit under Section 10 within either (i) three years from the expiration date of the permit to practice last obtained or renewed by said certificate holder or registrant or (ii) three years from the date upon which the certificate holder or registrant was granted his certificate or registration, if no permit was ever issued to him, unless such failure shall have been excused by the Board under and pursuant

to the provisions of Section 10; or (2) of a certificate holder or registrant to furnish evidence of satisfaction of requirements of continuing education as required by the Board under and pursuant to Section 10 or to meet any conditions in respect of continuing education which the Board may have ordered in respect of such certificate holder under that Section.

(k) Conduct discreditable to the public accounting profession.

Section 12. REVOCATION OR SUSPENSION OF PARTNERSHIP, PROFESSIONAL ASSOCIATION OR PROFESSIONAL CORPORATION REGISTRATION OR PERMIT

(1) After notice and hearing as provided in Section 13 of this Act, the Board shall revoke the registration and permit to practice of a partnership, professional association or professional corporation if at any time it does not have all the qualifications prescribed by the section of this Act under which it qualified for registration.

(2) After notice and hearing as provided in Section 13 of this Act, the Board may revoke or suspend the registration of a partnership, professional association or professional corporation or may revoke, suspend or refuse to renew its permit under Section 10 of this Act, to practice, or may censure the holder of any such permit for any of the causes enumerated in Section 11 or for any of the following additional causes:

(a) The revocation or suspension of the certificate or registration or the revocation of suspension or refusal to renew the permit to practice of any partner or shareholder.

(b) The cancellation, revocation, suspension or refusal to renew the authority of the partnership or any partner thereof, or any professional association or professional corporation or shareholder thereof, to practice public accounting in any other State for any just cause other than failure to pay an annual registration fee in such other State.

Section 13. HEARINGS BEFORE BOARD — NOTICE — PROCEDURE — REVIEW — APPEAL

(a) Commencement of Proceeding. The Board may initiate proceedings under this Act either on its own motion or on the complaint of any person.

(b) Notice-Service and Contents. A written notice stating the nature of the charge or charges against the accused and the time and place of the hearing before the Board on such charges shall be served on the accused not less than thirty (30) days prior to the date of said hearing either personally

or by mailing a copy thereof by registered mail to the address of the accused last known to the Board.

(c) Failure to Appear. If, after having been served with the notice of hearing as provided for herein, the accused fails to appear at said hearing and defend, the Board may proceed to hear evidence against him and may enter such order as shall be justified by the evidence, which order shall be final unless he petitions for a review thereof as provided herein; provided, however, that within thirty (30) days from the date of any order, upon a showing of good cause for failing to appear and defend, the Board may reopen said proceedings and may premit the accused to submit evidence in his behalf.

(d) Counsel — Witnesses — Cross-Examination. At any hearing the accused may appear in person or by counsel, produce evidence and witnesses on his own behalf, cross-examine witnesses and examine such evidence as may be produced against him. A professional association or corporation may be represented before the Board by counsel or by a shareholder who is a Certified Public Accountant or Public Accountant of this State in good standing. The accused shall be entitled, on application to the Board, to the issuance of subpoenas to compel the attendance of witnesses on his behalf.

(e) Subpoenas — Testimony — Deposition. (1) In all matters pending before it, the Board shall have the power to issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books and records, documentary evidence and materials or other evidence. Any person failing or refusing to appear or testify regarding any matter about which he may be lawfully questioned or to produce any papers, books, records, documentary evidence or materials or other evidence in the matter to be heard, after having been required by order of the Board or by subpoena of the Board to do so, may, upon application by the Board to any Circuit Judge of the State of Alabama be ordered to comply therewith, and upon failure to comply with the order of said Circuit Judge, the said Court may compel obedience by attachment as for contempt, as in the case of disobedience of a similar order or subpoena issued by said court. The Chairman, and the Secretary, of the Board shall have the authority to issue subpoenas and any Board member shall have authority to administer oaths to witnesses, or to take their affirmation. A subpoena or other process or paper may be served upon any person named therein, anywhere within the State of Alabama, with the same fees and mileage, by any officer authorized to serve subpoenas or such other process or paper in civil actions, in the same manner as is prescribed by law for subpoenas issued out of the Circuit Courts of this State, said fees and

mileage and other costs including witness fees and mileage to be paid as the Board directs.

(2) Deposition may be taken within or without the State of Alabama in the manner provided for by the laws of Alabama for the taking of depositions in matters pending in the Circuit Courts of this State. Said depositions shall be returnable to the Clerk of the Circuit Court of the County wherein said hearing before the Board is pending, and said Clerk shall deliver said depositions to the Board upon request, and said depositions may be opened or used by the parties to said proceedings the same as is provided for in matters pending before the Circuit Courts.

The Circuit Court shall, upon request of any interested party in any proceedings before the Board, issue commissions for the taking of depositions in the same manner as is provided by law for the issuance of commissions for the taking of depositions in matters pending before the Circuit Courts of this state.

(f) Evidence. The Board shall not be bound to observe formal rules of pleading or evidence.

(g) Record. A stenographic record of hearings shall be kept and a transcript thereof filed with the Board.

(h) Attorney for the Board. At all hearings, the Attorney General of this State, or one of his assistants designated by him, or such other legal counsel as may be employed by the Board, shall appear and represent the Board and participate in the presentation of any matter before the Board.

(i) Decision. Any decision of the Board shall be by majority vote thereof.

(j) Review by Court. (1) Anyone adversely affected by any order of the Board may obtain a review thereof by filing a written petition for review with the Circuit Court of Montgomery County, in Equity within thirty (30) days after the entry of said order. The petition shall contain or have attached thereto a true copy of the order complained of and shall state the grounds upon which the review is asked and shall pray that the order of the Board be modified or set aside in whole or in part. A copy of such petition shall be forthwith served upon any member of the Board and thereupon the Board shall certify and file in the Court a copy of its order and a complete transcript of the record upon which the order complained of was entered. The case shall then be tried and heard on the record made before the Board, without the introduction of new or additional evidence, but the parties shall be permitted to file briefs. The Court may affirm, modify or set

aside the Board's order in whole or in part, or may remand the case to the Board for further evidence, and may, in its discretion, stay the effect of the Board's order pending its determination of the case. The Court's decision shall have the force and effect of a decree in equity.

(2) From the judgment or decree of the Circuit Court, sitting in Equity, either the Board or the affected party who invoked the review may appeal directly to the Supreme Court of Alabama by taking such appeal within thirty (30) days after the date of the making of and entering of, its judgment or decree by the Circuit Court. The affected party so appealing shall give security for the costs of such appeal to be approved by the register of the Circuit Court. No such security shall be required of the Board.

Section 14. REINSTATEMENT

Upon application in writing and after hearing, pursuant to notice, the Board may issue a new certificate to a Certified Public Accountant whose certificate shall have been revoked, or may allow the re-registration of anyone whose registration has been revoked, or may re-issue or modify the suspension of any permit to practice public accounting which has been revoked or suspended.

Section 15. ACTS DECLARED UNLAWFUL

(1) No person shall assume or use the title or designation "Certified Public Accountant" or the abbreviation "C.P.A." or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a Certified Public Accountant, unless such person has received a certificate as a Certified Public Accountant under Section 3 of this Act and if in public practice holds a permit issued under Section 10 of this Act, which is not revoked or suspended (hereinafter referred to as a "live permit"), and all of such person's offices in this State for the practice of public accounting are maintained and registered as required under Section 9; provided, however:

(a) That a foreign accountant who has registered under the provisions of Section 4 of this Act and who holds a live permit issued under Section 10 of this Act may use the title under which he is generally known in his country, followed by the name of the country from which he received his certificate, license or degree.

(b) No partnership shall assume or use the title or designation "Certified Public Accountants" or the abbreviation "C.P.A.s" or any other title, designation, words, letters, signs, abbreviation, card or device tending to indicate that such part-

nership is composed of Certified Public Accountants, unless such partnership is registered as a partnership of Certified Public Accountants under Section 5 of this Act, holds a live permit issued under Section 10 of this Act, and all of such partnership's offices in this State for the practice of public accounting are maintained and registered as required under Section 9 of this Act.

(c) No professional association or professional corporation shall assume or use the title or designation "Certified Public Accountants" or the abbreviation "C.P.A.s" or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such professional association or professional corporation is composed of Certified Public Accountants, unless such professional association or professional corporation is registered as a professional association or professional corporation of Certified Public Accountants under Section 5 of this Act, holds a live permit issued under Section 10 of this Act, and all of such professional association's or professional corporation's offices in this State for the practice of public accounting are maintained and registered as required under Section 9 of this Act.

(d) No person shall assume or use the title or designation "Public Accountant" or the abbreviation there of or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a Public Accountant, unless such person is registered as a Public Accountant under Section 7 of this Act, holds a live permit issued under Section 10 of this Act, and all of such person's offices in this State for the practice of public accounting are maintained and registered as required under Section 9 or unless such person has received a certificate as a certified Public Accountant under Section 3 of this Act, holds a live permit issued under Section 10 of this Act, and all of such persons offices in this State for the practice of Public Accounting are maintained and registered as required under Section 9 of this Act.

(e) No partnership shall assume or use the title or designation "Public Accountant" or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such partnership is composed of Public Accountants, unless such partnership is registered as a partnership of Public Accountants under Section 8 of this Act, or as a partnership of Certified Public Accountants under Section 4 of this Act and holds a live permit issued under Section 10 of this Act, and all of such partnership's offices in this State for the practice of public accounting are maintained and registered as required under Section 9.

(f) No professional association or professional corporation shall assume or use the title or designation "Public Accountant" or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such a professional association or professional corporation is composed of Public Accountants, unless such a professional association or professional corporation is registered as a professional association or professional corporation of Public Accountants under Section 8 of this Act, or as a professional association or professional corporation of Certified Public Accountants under Section 5 of this Act and holds a live permit issued under Section 10 of this Act, and all such professional association's or professional corporation's offices in this State for the practice of public accounting are maintained and registered as required under Section 9.

(g) No person, partnership, professional association, or professional corporation shall assume or use the title or designation "Certified Accountant", "Enrolled Accountant", "Licensed Accountant", "Registered Accountant", or any other title or designation likely to be confused with "Certified Public Accountant" or "Public Accountant", or any of the abbreviations "CA", "RA", "EA", or "LA", or similar abbreviations likely to be confused with "CPA" or "PA" provided, however, that anyone who holds a live permit issued under Section 10 of this Act, and all of whose offices in this State for the practice of public accounting are maintained and registered as required under Section 9, may hold himself out to the public as an "Accountant" or "Auditor"; and provided further, that a foreign accountant registered under Section 4 who holds a live permit issued under Section 10, and all of whose offices in this State for the practice of public accounting are maintained and registered as required under Section 9, may use the title under which he is generally known in his country, followed by the name of the country from which he received his certificate, license or degree.

(h) No person shall sign or affix his name or any trade or assumed name used by him in his profession or business, with any wording indicating that he has expert knowledge in accounting or auditing, to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing (1) financial information or (2) facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, regulations, grants, loans and appropriations, unless he holds a live permit issued under Section 10 of this Act, and all of his offices in this State for the practice of public accounting are maintained and registered under Section 9 provided, however, that the provisions of this sub-

section shall not prohibit any officer, employee, partner, or principal of any organization from affixing his signature to any statement or report in refernece to the financial affairs of said organization with any wording designating the position, title, or office which he holds in said organization, nor shall the provisions of this subsection prohibit any act of a public official or public employee in the performance of his duties as such.

(i) No person shall sign or affix a partnership, professional association or corporate name, with any wording indicating that it is a partnership, professional association or professional corporation composed of accountants or auditors or persons having expert knowledge in accounting or auditing, to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing (1) financial information or (2) facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, regulations, grants, loans and appropriations, unless the partnership, professional association or professional corporation holds a live permit issued under Section 10 of this Act, and all of its offices in this State for the practice of public accounting are maintained and registered as required under Section 9.

(j) No person shall assume or use the title or designation "Certified Public Accountant" or "Public Accountant" in conjunction with names indicating or implying that there is a partnership professional association or professional corporation, in conjunction with the designation "and Company" and "and Co." or a similar designation if, in any such case, there is in fact no bona fide partnership, professional association or professional corporation registered under Section 5 or Section 8 of this Act; provided, that a sole proprietor or partnership lawfully using such title or designation on the effective date of this Act, may continue to do so if he or it otherwise complies with the provisions of this Act. This section shall not prevent a partnership or its successors from continuing to practice under a firm name which consists of or includes the name or names of one or more former partners, nor shall it prevent the continuation of a partnership name for a reasonable period of time by the remaining partner practicing as a sole proprietor after the withdrawal or death of one or more partners.

Section 16. EXCEPTIONS—ACTS NOT PROHIBITED

(1) Nothing contained in this Act shall prohibit any person not a Certified Public Accountant or Public Accountant

from serving as an employee of, or an assistant to, a Certified Public Accountant, a Public Accountant, a partnership or professional association or professional corporation composed of Certified Public Accountants or Public Accountants holding a permit to practice issued under Section 10 of this Act; or a foreign accountant registered under Section 4 of this Act; provided that such employee or assistant shall not issue any accounting or financial statements over his name.

(2) Nothing contained in this Act shall prohibit a Certified Public Accountant of another State, or an accountant who holds a certificate, license or degree in a foreign country, constituting a recognized qualification for the practice of public accounting in such country, from temporarily practicing in this State on professional business incident to his regular practice outside this State; provided, that such temporary practice is conducted in conformity with Section 6 of this Act and the regulations and rules of professional conduct promulgated by the Board.

Section 17. INJUNCTION AGAINST UNLAWFUL ACT

Whenever it appears to the Board that any person has engaged, or is about to engage, in any acts or practices which constitute or will constitute, a violation of Section 15 of this Act, the Board may in its own name bring action in an appropriate Court for an order enjoining such acts or practices, and upon a showing by the Board that such person has engaged, or is about to engage, in any such acts or practices, an injunction, restraining order, or such other order as may be appropriate may be granted by such Court without bond; and, such proceeding may be maintained regardless of whether proceeding have been or may be instituted before the Board, or whether criminal proceedings have been or may be instituted.

Section 18. MISDEMEANORS—PENALTY

Any person who violates any provision of Section 15 of this Act, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than Five Hundred Dollars, and may also be imprisoned in the County Jail, or sentenced to hard labor for the county for not more than twelve months.

Section 19. SINGLE ACT EVIDENCE OF PRACTICE

The display or uttering by a person of a card, sign, advertisement or other printed, engraved or written instrument or device, bearing a person's name in conjunction with the words "Certified Public Accountant" or any abbreviation thereof, or "Public Accountant" or any abbreviation thereof, shall

be prima facie evidence in any action brought under Section 17 or Section 18 of this Act that the person whose name is so displayed caused or procured the display or uttering of such card, sign, advertisement or other printed, engraved or written instrument or device, and that such preson is holding himself out to be a Certified Public Accountant or a Public Accountant holding a permit to practice under Section 10 of this Act. In any such action, evidence of the commission of a single act prohibited by this Act shall be sufficient to justify an injunction or a conviction without evidence of a general course of conduct.

Section 20. OWNERSHIP OF ACCOUNTANTS' WORKING PAPERS

All statements, records, schedules, working papers, and memoranda made by a Certified Public Accountant or Public Accountant incident to or in the course of professional service to clients by such accountant, except reports submitted by a Certified Public Accountant or Public Accountant to a client, shall be and remain the property of such accountant, in the absence of an express agreement between such accountant and the client to the contrary. No such statement, record, schedule, working paper or memorandum shall be sold, transferred or bequeathed, without the consent of the client or his personal representative or assignee, to anyone other than one or more surviving partners or new partners of such accountant's firm.

Section 21. DEFINITIONS

(1) Board. The term "Board" when used in this Act means the "Alabama State Board of Public Accountancy" created by Section 2, of this Act, except the special meaning applicable only to Section 3.

(2) Masculine terms when used herein shall also include the feminine.

(3) State. The term "State" when used in this Act includes any State, territory or insular possession of the United States, or the District of Columbia.

Section 22. FEES — CHARGES — DISBURSEMENTS — APPROPRIATIONS—AND REPORTS

All fees and charges provided for in this Act shall be paid to the Board and upon collection thereof shall be deposited in the State Treasury to the credit of the Alabama State Board of Public Accountancy. The State Treasurer shall keep all monies in a separate fund to be known as "Fund of the Alabama State Board of Public Accountancy," which fund shall be expended and drawn against solely for the purposes of this

Act as herein provided. For the purpose of carrying out the objects of this Act, and for the exercise of the powers herein granted, the Board shall have the power to direct the disbursement of said fund. All compensation, expenses, and charges incurred for the purposes of this Act shall be paid from said fund and shall be paid on warrant of the State Comptroller upon certificate or voucher of the Treasurer of the Board, and of such separate fund, such sums as are necessary are hereby appropriated. No compensation, expenses, or charges incurred under this Act shall be a charge against the general funds of this State, and no part of the special fund herein provided shall revert to the general funds of the State. Fees and charges provided for in this Act shall be in addition to any licenses which are now or may hereafter be levied on behalf of the State or any political subdivision thereof.

Section 23. CONSTITUTIONALITY AND SEVERABILITY

If any part of this Act shall be found to be unconstitutional, invalid or ineffective by any Court of competent jurisdiction, the remaining portion or portions of this Act shall be and remain in full force and effect and as valid as if such part or portion had not been incorporated herein.

Section 24. REPEAL PROVISIONS

This Act repeals and supercedes Chapter 1 of Title 46, Code of Alabama 1940 pertaining to Accountants; and all other laws and parts of laws, general, special, private or local, in conflict with or inconsistent with the provision of this Act are hereby repealed, provided, however, that nothing in this Act contained shall invalidate or affect any action taken under any law in effect prior to the effective date hereof, nor shall invalidate or affect any proceeding instituted under such law before the effective date hereof.

Section 25. EFFECTIVE DATE

Upon its passage and approval by the Governor, or upon its otherwise becoming law, this Act shall take effect on October 1, 1973.

This Act became a law under Section 125 of the Constitution on September 6, 1973 without approval by the Governor.

Act No. 998 H. 2015—Lutz, Grainger, Hale, King, Hearn

AN ACT

Relating to Madison County and the City of Huntsville; further regulating the sale of alcoholic beverages therein.

Be It Enacted by the Legislature of Alabama:

Section 1. In Madison County it is unlawful for any person, firm, corporation or association to sell or offer to sell any spirituous or vinous liquor except at Alabama Alcoholic Beverage Control Board liquor stores, or to sell or to offer to sell within said county any malt or brewed beverages except within the police jurisdiction of an incorporated municipality thereof; provided however, any wholesaler, distributor, jobber or retailer licensed to sell malt or brewed beverages shall also be authorized to sell draft beer provided said draft beer shall not be held for sale or sold in containers exceeding a maximum capacity of 288 ounces. However, the council or commission of the City of Huntsville may license and regulate the sale of spirituous or vinous liquors and malt or brewed beverages in private clubs within the city limits, and may adopt and enforce such ordinances as may be considered necessary for such purposes. As used in this Act, the term "club" shall have the meaning ascribed to such term in Alabama Code 1940, Title 29, Section 1(f).

Section 2. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 3. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on September 6, 1973 without approval by the Governor.

Act No. 999 H. 313—Burgess, Stewart, Merrill

AN ACT

To name the fieldhouse at Ohatchee High School located in Calhoun County in honor of S. Gerald Acker.

WHEREAS the vast majority of the people of the Ohatchee School Community would like to have the new fieldhouse named after S. Gerald Acker; and

WHEREAS S. Gerald Acker is a former member of the Calhoun County Board of Education, and an avid community worker who has contributed liberally of time, effort and money to various community projects; and

WHEREAS only the legislature of the State of Alabama has the authority to name a public building after some living person; now therefore

Be It Enacted by the Legislature of Alabama:

Section 1. The fieldhouse at Ohatchee High School located in Calhoun County is hereby named the "S. Gerald Acker Fieldhouse", and appropriate markers shall be placed designating same.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 10, 1973.

Time: 5:00 P.M.

Act No. 1000 H. 388—Merrill, Burgess, Stewart

AN ACT

To provide for the exemption from ad valorem taxation of the home of any person who is totally disabled or who is sixty-five years of age or older and who had an adjusted gross income of less than five thousand dollars for income tax purposes for the last preceding year.

Be It Enacted by the Legislature of Alabama:

Section 1. In addition to the persons and property exempt from ad valorem taxation as prescribed in Code of Alabama 1940, Title 51, Section 2, as amended and supplemented, the following shall also be exempt from ad valorem taxation: the home of any person who is totally disabled or who is sixty-five years of age or older, and who had a gross income of five thousand dollars or less, for the preceding year. Proof of age and income shall be furnished when the exemption provided herein is claimed. Proof of income may be, but shall not be limited to, a certified copy of the claimants income tax return for the preceding year. Proof of total disability may be, but shall not be limited to, the written certification of such total disability by any two physicians licensed to practice in this state.

Section 2. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this Act are repealed.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 10, 1973.

Time: 5:00 P.M.

Act No. 1001 H. 677—Bank, Falkenburg, Weeks, Culver

AN ACT

Further amending Code of Alabama 1940, Title 22, Sections 23, 24, 25, 26, 27, 28, 29, 30, 31 and adding Section 31 (1), relating to Vital Statistics; providing for registration of death by the funeral director and and filing a certificate of death by the attending physician or coroner in certain cases.

Be It Enacted by the Legislature of Alabama:

Section 1. Code of Alabama 1940, Title 22, Section 23, be amended to read as follows:

"Section 23. **Receipts** for burial or removal of dead bodies **within the state** prescribed. No dead human body shall be buried, cremated, or otherwise disposed of, or removed from or into any registration district, or be temporarily held pending further disposition more than seventy-two hours after death, unless a **receipt** for burial, removal, or other disposition thereof shall have been properly issued **in** the registration district in which the death occurred, or in which the body was found, **and all receipts shall be issued by the person engaged in the disposition of the body and a copy sent directly to the local registrar. Blank receipts to be secured from the county health department. Prior to release of body a receipt must be received by the institution, hospital, nursing home from the person or persons engaged in the disposition of the body. It is unlawful for institutions, hospitals, nursing homes to release a body without receiving a receipt. In all cases the funeral director or other person in charge of interment or disposing of the body, shall prepare and deliver a copy of the receipts to the local registrar either delivered in person or mailed. In addition, it is the duty of the funeral director to provide non-medical information or a completed certificate to the local registrar within five days after the death is known. Non-medical information includes the name of the physician, if any. These forms are to be prescribed and distributed by the state registrar upon approval by the state board of health."**

Section 2. Code of Alabama 1940, Title 22, Section 24, to be amended to read as follows:

"Section 24. Fetal death registration. A certificate of every fetal death shall be filed with the local registrar of the district in which the fetal death occurs within **three** days after the occurance is known; except that a certificate shall not be required if the fetus has not advanced to or beyond the twentieth week of uterogestation. If the place of fetal death is not known then the certification shall be filed with the local registrar of the district in which the fetus is found. It shall be the duty of the attending physician or midwife, to prepare a certificate of fetal death, properly filled out on a blank provided by the state board of health. The attendant on a fetal death, physician or midwife, shall sign the certificate and give his or her address and date of signature, together with such medical data pertaining thereto as he can furnish. In case of plural fetal deaths, a separate certificate shall be made for each child. If there be no attending physician or midwife, then it shall be the duty of the father or mother, or manager of the premises or institution, to prepare the certificate and to deliver same within **three** days to the registrar of the district in which the event took place. **If there is interment of stillborn child, the person in charge shall be responsible for filing certificate.**

Section 3. Code of Alabama 1940, Title 22, Section 25, be amended to read as follows:

"Section 25. Death registration. A certificate of death shall be filed with the local registrar of the district in which the death occured within five days after occurance is known; or if the place of death is not known then with the local registrar of the district in which the body is found or death is pronounced. The funeral director, or other person in charge of interment, shall be responsible for obtaining and filing the certificate of death **to local registrar with the non-medical data being completed.** He shall obtain the personal and statistical particulars from the person best qualified to supply them. The funeral director shall record information to show place of death, date of death, proposed date and place of burial, or other disposition, over his signature and address. **If it was a hospital death, data may be obtained from the hospital records.** The funeral director shall then present the certificate to the local registrar with the name of the **attending physician,** if any, within five days after the death is known. In the case of any death that occurs without medical attendance, it shall be the duty of the funeral director, or other person in charge of interment, to notify the local county health officer, or the coroner if there is no county health officer by presenting the certificate to the local registrar.

Certificates of death if tendered sixty days or more after death must be authenticated by such sworn statements as the state board of health shall prescribe and filed with the state

registrar. Nothing in this section shall exempt physicians or funeral directors or any other person in charge of interment from filing stillborn and certificates of death as prescribed elsewhere in this chapter. At no time shall the funeral director inter a body without physician or county health officer or coroner approval if there is suspicion by the funeral director that death occurred from unnatural causes."

Section 4. Code of Alabama 1940, Title 22, Section 26, be amended to read as follows:

"Section 26. Medical **portion** of certificate of death. The medical **certification** of cause and time of death shall be completed, signed and filed by the attending physician, if any, otherwise the medical **certification** shall be made and signed by the county health officer or coroner as may be appropriate. The medical **certification of the certificate of death** shall be properly completed and returned to the local **registrar within three days after receipt of the certificate.** The attending physician shall certify the disease or condition directly leading to death, antecedent causes and conditions contributing to the death and such other medical data as may be required by the state registrar to properly classify the death. He shall also specify the time in attendance, the time he last saw the deceased alive, the hour of the day at which death occurred, except deaths referred to the coroner. **For the purposes of this act, an attending physician is one who has medical knowledge of the deceased or viewed the body, or last physician in attendance before death or a combination of the above.** In the case of any death which occurs without medical attendance, the county health officer **or coroner,** when so notified by the funeral director or other person, shall investigate and make and file the certificate of death. Provided, that if the county health officer suspects suicide or is unable to ascertain the cause of death, or finds circumstances which cause suspicion that the death was caused by the criminal act of another, he shall then refer the case to the coroner or other proper officer for his investigation and certification. The county health officer, coroner, or other proper official whose duty it becomes to make the medical certificate shall state the name of the deceased, if known, the cause (disease) of death, or if an external cause, the means of death and whether (probably) accidental, suicidal or homicidal. **It shall be the duty of the local registrar to secure the properly signed medical data on the certificate except when secured by the funeral director."**

Section 5. Code of Alabama 1940, Title 22, Section 27, be amended to read as follows:

"Section 27. Burial or removal permit **for out of state:** Duty of funeral director. The funeral director, or other person

in charge of interment, shall file the **statistical data of the certificate of death along with the name of the attending physician** with the local registrar in order to obtain a permit for burial, removal or other disposition of the body **from the boundaries** of this state. The funeral director shall deliver the burial permit to the person in charge of the place of burial before interring or otherwise disposing of the body **outside of the state,** or shall attach removal permit to the box containing the body when shipped by any transportation company."

Section 6. Code of Alabama 1940, Title 22, Section 28, be amended to read as follows:

"Section 28. Records and reports of **funerals conducted or casket sales** prescribed. Every person, firm or corporation selling a burial casket shall keep a record showing the name and post office address of the purchaser or orderer, the name, sex, color, and age of deceased, and date and place of death of deceased, which record shall be open to inspection of the state registrar or his accredited representative at all times. On the fifth day of each month the person, firm, or corporation selling caskets **or each funeral director** shall report each sale or funeral for the preceding month on such form as the state board of health shall provide, to the county health **office.** In case there are no sales of burial caskets **or funerals conducted,** that fact **is to be reported** on the fifth day of each month for the preceding month, on such form as the state board of health shall provide, to the county health **office.** Every person, firm, or corporation selling a casket at retail, and not having charge of the disposition of the body, shall enclose within the casket a notice, furnished by the state board of health, calling the attention of the person or persons in charge of the disposition of the body to the requirements of the law; also, a blank certificate of death, and **any** rules and regulations of the state board of health concerning the burial or other disposition of a dead human body. Provided, that each county health **office** shall send said **casket** sales reports for the preceding month to the state registrar on or before the tenth day of each month."

Section 7. Code of Alabama 1940, Title 22, Section 29, be amended to read as follows:

"Section 29. **Funeral directors** register with health **office.** No person shall engage in the business of **funerals** or of selling **caskets** unless said person files with the **county** health **office** of the county in which such business is carried on the name and address of the person or firm carrying on said business."

Section 8. Code of Alabama 1940, Title 22, Section 30, be amended to read as follows:

"Section 30. Wording of **receipt** where burial within state. If the interment, or other disposition of the body, is to be made within the state the wording of the **receipt is to be determined by the state registrar subject to approval by the state board of health**; provided however that said wording of the receipt shall not result in said receipt being punitive in its intent.

Section 9. Code of Alabama 1940, Title 22, Section 31, be amended to read as follows:

"Section 31. Duties of sextons in certain circumstances prescribed. No person in charge of any premises on which interments are made shall inter or permit the interment of, or other disposition of, any human body, unless it is accompanied by a **receipt**, removal or transit permit, as herein provided. And, such person shall endorse upon the said **receipt** the date of interment, over his signature, and shall return all **receipts** so endorsed to the local registrar of the registration district in which the place of interment is located within **three** days from the date of the interment, or within the time fixed by local ordinances. He shall keep a record of all bodies interred, or otherwise disposed of, on the premises under his charge, in each case stating the name of each deceased person, place of death, date of burial or disposal, and the name and address of the **funeral director**; which record shall at all times be open to official inspection. **The sexton shall file a monthly report with the local registrar listing the deceased person's name, place of death, date of burial or disposal, and the name and address of the funeral director. This report is to be mailed to the county health office on the fifth day of each month. The county health office is to use the sexton's report in determining the completeness of death registration in that district.**"

Section 10. Code of Alabama 1940, Title 22, Section 31 (1), be added to read as follows:

"**Section 31 (1). Penalties. Any person who violates any provisions of sections 23, 24, 25, 26 27, 28, 29, 30, 31 of this chapter or any regulation adopted by the state board of health pertaining thereto shall be guilty of a misdemeanor and upon conviction by be fined up to fifty dollars ($50.00), and imprisoned up to ten (10) days in the county.**"

Section 11. This Act is intended to relate entirely to the Alabama vital statistics system and is not intended to have effect on any other laws or parts of laws except to the extent in conflict with the positive provisions hereof.

Section 12. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 13. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming law.

Approved September 10, 1973.

Time: 5:00 P.M.

Act No. 1002 H. 734—Falkenburg, Mims, Reed (T), Bank, Doss, McNair, Boutwell, Erdreich, McMillan, Burgess, Timmons, Wallace

AN ACT

To amend Title 45, Section 144, Alabama Code, 1940, as amended, providing a daily prisoner meal allowance, so as to provide for an increase in such allowance.

Be It Enacted by the Legislature of Alabama:

Section 1. Title 45, Section 144, Alabama Code 1940, as amended, is further amended to read as follows:

"Section 144. Allowance for feeding prisoners.—Food for prisoners in the county jails shall be paid for by the state as follows: There shall be allowed such amount as is actually necessary for food for each prisoner daily, but the said amount so allowed cannot exceed one dollar, twenty-five cents ($1.25) per capita."

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 10, 1973.

Time: 5:00 P.M.

Act No. 1003 H. 147—Falkenburg

AN ACT

To provide additional judges for the tenth judicial circuit of Alabama.

Be It Enacted by the Legislature of Alabama:

Section 1. There shall be established two additional judgeships for the tenth judicial circuit of Alabama, which shall be in addition to the judgeships of the circuit now existing accord-

ing to law. The first additional judgeship shall be established on October 1, 1973, and the second additional judgeship shall be established December 1, 1973.

Section 2. The circuit court judges provided for in this act shall have and exercise all of the jurisdiction, powers, rights, and authority, shall possess all of the qualifications, shall perform all of the duties, and shall be subject to the pains, obligations and penalties that other circuit court judges may exercise, perform, or be subject to. In addition thereto, such judges must possess all of the qualifications of the judges numbered one to four, inclusive, and six to eleven, inclusive, and fourteen and fifteen of the tenth judicial circuit. The first judge appointed under the provisions of this act shall occupy the judgeship numbered seventeen and the last judge so appointed shall occupy the judgeship numbered eighteen.

Section 3. Each of these judges shall sit in that division of the circuit in which judges numbered one to four, six to eleven, and thirteen to fifteen, sit; and they shall perform the same duties in the division as performed by the other judges of the division, subject to assignment by the presiding judge of the circuit.

Section 4. The additional judges provided for in this act shall receive the same salary, payable in the same manner, as other circuit court judges in the tenth judicial circuit.

Section 5. The first judge of each of the additional judgeships shall be appointed in the manner provided by Amendments 83 and 110 to the Constitution of Alabama, and each shall hold his office until his successor has been elected and qualified as provided by law.

Section 6. A judge for each additional judgeship shall be elected at the general election in 1974 and shall take office on the first day of the month next succeeding his election and qualification; and he shall hold office until his successor shall have been elected and qualified. Thereafter, the additional judges shall be elected at the regular general election of circuit court judges, for terms of six years each as prescribed by law.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 7, 1973

Time: 4:20 P.M.

Act. No. 1004 H. 399—Mathews

AN ACT

To amend Act No. 758, S 556, Regular Session 1967, which Act fixes the salary range of the State Budget Officer, by placing the authority to fix such salary in the State Personnel Board.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act No. 758, S. 556, Regular Session 1967, is hereby amended to read as follows:

"Section 1. The compensation of the State Budget Officer shall be fixed by the State Personnel Board in accordance with the provisions of the Merit System Act."

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 7, 1973

Time: 4:20 P.M.

Act No. 1005 H. 569—Falkenburg, Erdreich, Jones (E), Dill, Boutwell, McBride, Timmons, Doss, Ellis, Adwell, Gafford, Wallace, Waggoner

AN ACT

To provide for the appointment, duties and compensation of four additional Deputy District Attorneys in judicial circuits composed of one county having a population of 600,000 or more according to the last or any subsequent federal decennial census and to provide when said Act shall go into effect.

Be It Enacted by the Legislature of Alabama:

Section 1. In judicial circuits composed of one county having a population of 600,000 or more according to the last or any subsequent federal decennial census, the District Attorney of such circuits shall be authorized to appoint four additional deputy district attorneys in addition to such deputy district attorneys as may now be authorized. Such deputy district attorneys shall be designated ninth, tenth, eleventh and twelfth deputy district attorneys. Such deputy district attorneys appointed pursuant to this Act shall be residents and qualified electors of the county comprising the circuit, qualified to practice law in the courts of this State, shall serve at the pleasure of the appointing Circuit District Attorney. Such deputy district attorneys shall be state officers and shall perform such duties as

are performed by the other deputy district attorneys in the circuit or such duties as the Circuit District Attorney may require.

Section 2. The ninth and tenth Deputy District Attorneys shall be paid an annual salary of $6,000 paid by the state as the salaries of other state officers are paid and in addition shall be paid out of the general fund of the county comprising the circuit, an annual salary of $6,000 payable in equal monthly installments.

Section 3. The eleventh and twelfth Deputy District Attorneys shall be paid an annual salary of $5,000 paid by the state as the salaries of other state officers are paid and in addition shall be paid out of the general fund of the county comprising the circuit, an annual salary of $5,000 payable in equal monthly installments.

Section 4. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. All laws or parts of laws which conflict with this Act are repealed.

Section 5. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 7, 1973

Time: 4:20 P.M.

Act No. 1006 H. 111—Gafford

AN ACT

Relating to counties having a population in excess of 600,000 inhabitants; providing that automotive parts businesses, antique dealers, flea markets, gift shops, and shops operated at hospitals, public parks, public airports, public auditoriums and civic centers or bowling alleys in such counties may operate on Sunday.

Be It Enacted by the Legislature of Alabama:

Section 1. Nothing in Title 14, Section 420, Code of Alabama 1940, as amended, or any other general, special or local law of this state shall be construed so as to prevent the operation on Sunday of any automotive parts businesses, antique dealers, flea markets, gift shops and shops operated at hospitals, public parks, public airports, public auditoriums and civic centers or bowling alleys in any county of this state having a

population of 600,000 or more inhabitants according to the most recent federal decennial census.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on September 6, 1973 without approval by the Governor.

Act No. 1007 H. 985—Headley, Smith (P)

AN ACT

To amend further Title 51, Section 21, Alabama Code 1940, by further exempting from taxation any tree, bush, vine or other growing thing from which a crop is harvested.

Be It Enacted by the Legislature of Alabama:

Section 1. Title 51, Section 21, Alabama Code 1940, as amended, is further amended to read as follows:

"Section 21. Enumeration of subjects of taxation.—The subjects of taxation, except as exempted by law, shall be as follows: (a) Every piece, parcel, tract or lot of land in this state, including therein all things pertaining to such land, and all structures and other things so annexed or attached thereto as to pass to a vendee by conveyance of such land; and every separate or special interest in any land, such as mineral, the right to mine minerals; the right to turpentine; oil or petroleum, natural gas and the right to remove same from the soil, or any other interests when such interests are owned by persons other than the owner of the surface or soil, except growing crops, standing timber, **or any tree, bush, vine or other growing thing from which a crop is harvested.** (b) All docks, wharves, wharf boats, lands [landings], and warehouses, toll bridges, ferries, canals, passes, channels, turnpikes, all street railroads, printing presses and materials. (c) All steamboats, barges, vessels and watercraft of every name and kind however propelled, plying waters of this state and the owner thereof shall return same for taxation to the assessors in the county wherein he resides and if such steamboat, barge, vessel and watercraft, is owned by a corporation, then in that county where its principal office is located. In case of owner being an individual not residing in this state or being a corporation with no principal office in this state, then in the county or counties where used. All such steamboats, barges, vessels or watercraft whether owned by a resident or nonresident of this state, which have acquired a permanent situs in this state. All transfer boats, steam-

boats or barges used by any railroad in transferring cars and passengers must be assessed and taxed in the county or counties where used, or where the owner resides, regardless or [of] where such vessel may be registered. (d) All stocks of goods, wares and merchandise, the assessment to be on the average amount on hand during the preceding year, except in cases where business is commenced on or after October 1 of a current year, and in such cases the assessment to be on the capital actually employed in the business and appointed as hereinafter provided, but the amount so assessed for any whole year shall in no case be less than the capital actually employed in the business, and this shall include all goods, wares and merchandise kept on plantations or elsewhere, or by railroad companies or persons, for sale or to be dealt out to laborers or employees for profit, or on account of their wages, and shall include all goods, wares and merchandise offered for sale by any person commencing business subsequent to the first day of October of a current year, but in such case the tax shall be apportioned according to the date at which the business was commenced, so that if commenced after the first day of January the tax shall be three fourths of the tax for the whole year; if commenced after the first day of April the tax shall be one half of the tax for the whole year; provided that the assessment herein provided for shall not include products raised on the farms in the hands of the original producers. If the person, association or corporation, receiver or trustee carrying on such business shall fail to make return of the amount of stock of goods, wares and merchandise as provided by law, or if the county tax assessor is not satisfied with the return made, in order to make proper assessment, he shall have the right to demand a copy of the last inventory made of such stock of goods, wares or merchandise, and may also by inquiry of persons believed to have knowledge of the subject obtain information as to the probable average amount of such stock, and from such information may assess the same upon his best judgment. (e) All household and kitchen furniture, mechanical and electrical refrigerators, libraries, jewelry, precious stones, plate and silverware, ornaments and articles of taste, pianos and other musical instruments, paintings, clocks, gold, silver and other watches and gold and other safety chains, all wagons and other vehicles; all motor cars, automobiles, trucks, busses, tractors, and motorcycles and other motor vehicles, and bicycles; all outboard motors; all airplanes, airships and other aircraft, and aircraft landing fields and equipment; all typewriters; all cash registers; all calculating machines; all bookkeeping machines, teletypes, dictaphones and other recording or sending apparatus or machines; all phonographs and all machines of like character; all radio sending and receiving sets and appliances; all iron safes and cabinets, all store fixtures, all office furni-

ture and fixtures; all mechanical tools and farming implements; all tanks, all storage reservoirs or basins; all golf bags, golf sticks and all other sporting goods; all pistols and guns; all cattle and horses, mules, studs, jacks, and jennets; all hogs, sheep, and goats, except as specifically exempted; all x-ray machines; all lense grinding machines, all eye testing machines, all surgical instruments and all other instruments or appliances used in surgical, dental, medical, optometrical or other professional work. (f) All money hoarded, whether in the custody of the owner in this state, or in another state, or in any safety deposit box, safe or vault, or elsewhere, except money on deposit in banks which is specifically exempted from taxation. (g) All investments in bonds, except bonds of the United States, the state of Alabama, and of counties and municipalities of this state, warrants or other obligations of county and city school boards in this state, and such other bonds as are not by law taxable; and all capital invested in bonds or currency which are exempt from taxation shall be liable to be taxed under this section should such capital at any time during the year be reconverted into money, bonds or property which is taxable, unless it is made to appear that the money, bonds or property into which such reconversion may be made has been assessed for taxes for such year. (h) All roadbed, track, engines, cars, derricks, cranes, signales [signals], crossties, and other property, real and personal of railroads, of mining and manufacturing plants, and all tramroads, pole-roads, canals, ditches and channels used for transporting or moving mineral ore, lumber, timber, logs, minerals, coal, ore, sand, gravel or other commodities, whether raw or manufactured, which are not taxed as improvements on the land or plant or main property, of the owner of such tramroads, pole-roads, canals, ditches or channels. (i) Shares in corporations or associations, not incorporated under the laws of this state, except stock in national banks. In arriving at the value of shares of stock of a corporation or association for the purposes of taxation, whether said corporation be domestic or foreign, all dividends earned or declared, and not distributed shall be treated as assets of said corporations. (j) On the gross amount of sales of goods, wares and merchandise owned by nonresidents made at auction in or during the tax year preceding the assessment of goods, wares and merchandise kept in stores for sale in the ordinary course of business, each auctioneer shall be assessed and shall pay a tax of one fourth of one percent, and each auctioneer shall pay a like tax on the gross amount of sales made by him of goods, wares and merchandise owned by citizens of this state which have been imported into this state and sold at auction before same have been assessed for taxes as other property; but on sales of goods, wares and merchandise, and fruit by cargo at

auction, the rate of taxation shall be one eighth of one percent (j) - (a). On the gross amount of commissions or sums charged and received during each year by any auctioneer, provided nothing herein contained shall be construed as levying a tax on commissions received for the sale or rental of real estate, or brokerage on loans or real estate or the underwriting of insurance. (k) All the real and personal property of water companies, including pumping stations, reservoirs, standpipes, towers, pipelines, gates, valves, tunnels, canals, and dams used in the business of supplying water to consumers for pay; all real and personal property of hydro-electric power, steam or other power and light companies; natural and manufactured gas companies and gas light companies, including all machinery, engines, dynamos, wires, poles, pipelines, tubes and appliances of every nature and description used in connection therewith; all real and personal property of every furnace, rolling mill, mine, quarry or manufacturing establishment, including all machinery, all engines, hoisting engines, derricks, and appliances of every nature used in the business; all dams across rivers and creeks; all real and personal property of cotton gins, cotton mills, cotton compresses, cottonseed oil mills, grain elevators, flour and grist mills, molasses and syrup mills, paper mills, chemical plants or manufacturies [manufactories], fertilizer factories or mixing plant; all peanut oil mills and peanut mills, creosoting plants, concrete mixing plants [plants], crosstie plants, and stave mills and heading mills. (l) All property real and personal of all cement plants, lime plants, plaster plants, or quarries or other manufacturing, mining or quarrying plants not herein specifically exempted. (m) All property brought into the state after the first day of October and before the assessor has completed his assessment, shall be subject to taxation the same as if it had been held or owned in the state on the first day of October. (n) All other property real, personal or mixed not hereinbefore specified, of whatever class, whether ejusdem generis or not, except as herein specifically exempted, which said property shall be assessed and specifically described."

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on September 6, 1973 without approval by the Governor.

Act No. 1008 H. 144—Jones (E), Boles, Falkenburg, Doss, McBride, Ellis

AN ACT

To create an additional judgeship for the Tenth Judicial Circuit of Alabama; to provide for the election of an incumbent thereof; to prescribe the jurisdiction, powers, authority, qualifications, duties, and compensation of such incumbent, and to render such incumbent liable to all the pains and penalties of other Circuit Judges in the State, and to further provide for a division of authority and duties between judgeships in said Circuit.

Be It Enacted by the Legislature of Alabama:

Section 1. That there is hereby created the office of Judgeship No. 19 of the Tenth Judicial Circuit of Alabama, which shall be in addition to these judgeships of said Circuit now existing. The Judge of said Judgeship No. 19 shall be appointed by the Governor as provided in the constitution to hold office until his successor has been elected at the general election of 1974, and shall have qualified. The Judge of said Judgeship No. 19 shall be elected at the next general election to be held in 1974, and shall take office on the first day of the month next succeeding his election and qualification and hold office until his successor shall have been elected and qualified; and thereafter at the next general election to be held in 1976, and each six years thereafter, the Judge of said Judgeship No. 19 shall be elected for same term of office as other Circuit Judges are elected in the State.

Section 2. The incumbent of said Judgeship No. 19 shall have and exercise all of the jurisdiction, powers, rights, and authority and possess all the qualifications, perform all the duties, and be subject to the pains, obligations, and penalties that other Circuit Judges may exercise, perform, or be subject to, and in addition thereto all of the qualifications of Judges Numbered Fifth and Twelfth of said Circuit, and shall preside over and sit in that Division (Bessemer Division) of said Circuit in which the Judges numbered Fifth and Twelfth sit as of course and perform the same duties in said Division as performed by said Judges numbered Fifth and Twelfth. Subject to the rights, powers, and authority of the Presiding Judge of the Tenth Judicial Circuit, the Judge sitting in said Division having the longer tenure of office shall be the Senior Judge and is vested with the authority and duty to apportion, allocate, and assign the work of said Circuit Court in said Division as between the Judges thereof equitably.

Section 3. The incumbent of said judgeship shall receive the same salary, payable in the same manner as other Judges of said Circuit receive and are paid.

Section 4. Should any word, phrase, clause, section or part of this Act be held to be unconstitutional it shall not affect the remainder of this Act.

Section 5. This Act shall take effect immediately upon its passage and approval by the Governor.

Approved September 7, 1973

Time: 4:20 P.M.

Act No. 1009 H. 244—Drake, St. John

AN ACT

To abolish the Office of County Solicitor of Cullman County, Alabama, and to extend the power, authority and duties of the District Attorney of the Thirty-Second Judicial Circuit to require that he prosecute or supervise the prosecution of all misdemeanors and all felonies in any and all inferior courts in said Judicial Circuit and to perform all duties heretofore performed by the County Solicitor of Cullman County, and creating the Office of Deputy District Attorney for said Judicial Circuit to be appointed and serve at the pleasure of the District Attorney; setting the qualifications and salary of said Deputy District Attorney.

Be It Enacted by the Legislature of Alabama:

Section 1. The Office of County Solicitor of Cullman County, Alabama, is hereby abolished.

Section 2. The power, authority and duties of the District Attorney of the Thirty-Second Judicial Circuit shall be and hereby are extended to empower, authorize and require that he prosecute or supervise the prosecution of all misdemeanors to be tried and all felonies to be heard on preliminary in any and all inferior courts located and constituted in the county composing such judicial circuit. Said duties shall also be extended to the prosecution or supervision of all criminal offenses to be tried in the Juvenile and Domestic Relations Courts of the Thirty-Second Judicial Circuit, and said District Attorney shall have the power and authority to take charge of any misdemeanor or felony heard or tried in such inferior courts, juvenile courts or domestic relations courts. Said District Attorney shall perform all duties heretofore performed by the County Solicitor of Cullman County.

Section 3. There is hereby authorized and created the Office of Deputy District Attorney for the Thirty-Second Judicial Circuit. The District Attorney for said circuit shall be and is hereby empowered to appoint said Deputy District Attorney who shall serve at the pleasure of the District Attorney. The Deputy District Attorney must be qualified by the laws and courts of this State for the practice of law. He must be a resident of the Thirty-Second Judicial Circuit. Such Deputy

District Attorney shall be invested with all the rights, powers, privileges, immunities, obligations and responsibilities of the District Attorney. He, however, shall perform the duties of his office under the direction and control of the District Attorney, and he shall not be allowed to practice civil law.

Section 4. The Deputy District Attorney of the Thirty-Second Judicial Circuit shall be a state officer and he shall receive an annual salary of $9600.00, payable from the State Treasury in the same manner as the salaries of other state officers are paid. The county shall pay $5400.00 annually.

Section 5. The Cullman County Commission shall furnish said Deputy District Attorney with convenient and suitable office space in the Cullman County Courthouse with all the necessary and appropriate office furniture, including a telephone.

Section 6. This Act shall become effective upon the commencement of the next regular term of the District Attorney of the Thirty-Second Judicial Circuit, after its passage and approval by the Governor.

Approved September 7, 1973

Time: 4:20 P.M.

Act No. 1010 H. 245—St. John, Drake, McDonald

AN ACT

Relating to the Thirty-Second Judicial Circuit; providing for an additional circuit judge in such circuit.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby created an additional judgeship for the Thirty-Second Judicial Circuit. An additional judge shall be appointed for the circuit by the Governor, within ten days after the effective date of this Act, who shall hold office until his successor is elected and qualified as provided in Article VI, Sections 158 and 159, of the Constitution of Alabama. The judge for the additional judgeship shall be elected thereafter as are other circuit judges in this state.

Section 2. The existing judgeship in said circuit shall be designated judgeship No. 1 and the additional judgeship created by this Act shall be designated judgeship No. 2. The present judge shall be the presiding judge until the expiration of his term of office and thereafter the judge who has been in office as circuit judge the longest shall be the presiding judge, but if neither of them has been in office longer than

the other, the chief justice of the supreme court shall name the presiding judge. Candidates for the office of circuit judge in said circuit shall designate whether they are candidates for the office of circuit judge No. 1 or for the office of circuit judge No. 2.

Section 3. The judge appointed or elected as provided in Section 1 of this Act shall have and exercise all the jurisdiction, power, right and authority; shall possess all of the qualifications; shall perform all of the duties required; shall have all of the authority to appoint reporters, clerical help and other court officers allowed by law; and shall be subject to all the pains and penalties of such office as any other such judge is subject to in the same circuit.

Section 4. The compensation of such judge, including expense allowances and supplements, shall be paid in the same amount, from the same sources, and under the same terms and manner as that of the other judge in the Circuit.

Section 5. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 6. All laws or parts of laws which conflict with this act are repealed.

Section 7. This act shall become effective immediately upon its approval by the Governor or upon its otherwise becoming a law.

Approved September 7, 1973

Time: 4:20 P.M.

Act No. 1011 H. 324—Mathews, McCorquodale, Drake, Turner, Crowe, Naramore, Reed (T)

AN ACT

To make appropriations for the support and maintenance of the Walker County Junior College located at Jasper, in Walker County.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated for each of the two fiscal years ending September 30, 1974, and September 30, 1975, respectfully, the sum of Two Hundred Thousand Dollars ($200,000.00), out of funds in the Alabama Special Educational Trust Fund, for the use and benefit of the Walker County

Junior College, located at Jasper, in Walker County, Alabama, which sums shall be used for the support and maintenance of said college. The appropriation herein made shall be expended on warrants of the State Comptroller and upon vouchers or requisitions signed by the chief executive officer of Walker County Junior College and approved by the Governor.

Section 2. This Act shall become effective October 1, 1973.

Approved September 7, 1973.

Time: 4:20 P.M.

Act No. 1012 H. 325—Mathews, McCorquodale, Turner, Smith (K), Reed (T)

AN ACT

To make appropriations for the support and maintenance of the Lyman Ward Military Academy.

Be It Enacted by the Legislature of Alabama:

Section 1. That there is hereby appropriated for each of the two fiscal years ending September 30, 1974, and September 30, 1975, the sum of Eighty-Five Thousand, Two Hundred and Thirty-Four Dollars ($85,234.00), out of the funds in the Alabama Special Educational Trust Fund, to the Lyman Ward Military Academy located at Camp Hill, Alabama, to be used for the support and maintenance of said school.

Section 2. This Act shall become effective October 1, 1973.

Approved September 7, 1973.

Time: 4:20 P.M.

Act No. 1013 H. 736—Grainger, Lutz, King, Hale, Hearn

AN ACT

To create two additional judgeships for the Twenty-third Judicial Circuit of Alabama, and to provide for the election, term, compensation, powers, duties, and authority of such judges.

Be It Enacted by the Legislature of Alabama:

SECTION 1. There shall be two additional judgeships, to be known as Place No. 5 and Place No. 6 for the Twenty-third Judicial Circuit of Alabama. The judges for the additional judgeships shall be elected in the general election in 1974, and

the additional judgeships shall be established upon the election of the judges herein provided for. Such judges shall hold office from the day after their election and until their successors are elected and qualified as provided in Constitution of Alabama 1901, Article VI, Sections 158 and 159. The judges for the additional judgeship shall be elected thereafter as are other circuit judges in this state.

SECTION 2. The additional judges of the Twenty-third Judicial Circuit provided for by this Act shall have and exercise all the jurisdiction, powers, rights, and authority conferred on other circuit judges in this state. They shall receive the same compensation payable by the State as other circuit judges, and shall receive the same county supplement to their state salary and allowances as the other circuit judges in the Twenty-third Judicial Circuit. The judges shall take the same oath of office, possess the same qualifications, perform the same duties, and shall be subject to the same penalties and obligations as other circuit judges.

SECTION 3. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

SECTION 4. All laws or parts of laws which conflict with this Act are repealed.

Approved September 7, 1973.

Time: 4:20 P.M.

Act No. 1014 H. 961—Brassell

AN ACT

Relating to the Twenty-sixth Judicial Circuit; providing for an additional circuit court judge in such circuit.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby created an additional judgeship for the Twenty-sixth Judicial Circuit, which shall be designated judgeship No. 2. The existing judgeship shall be designated judgeship No. 1. An additional judge shall be elected at the general election to be held in November 1974 who shall take office immediately upon the certification of his election by the Secretary of State. Said judge shall hold office until his successor is elected and qualified.

Section 2. The judge appointed or elected as provided in Section 1 of this Act shall have and shall exercise all the juris-

diction, power, right and authority; shall possess all of the qualifications; shall perform all of the duties required; and shall be subject to all of the pains and penalties of such office as any other such judge is subject to in the same circuit.

Section 3. The compensation and allowances of such judge shall be paid in the same amount and under the same terms and manner as that of the other judge in the circuit.

Section 4. The judge may appoint a bailiff, and a court reporter whose qualifications, powers, duties, and authority shall be the same as each other bailiffs and reporters of the circuit court and whose compensation shall be paid in the same amount and under the same terms and manner as other bailiffs and reporters of the Twenty-sixth Judicial Circuit.

Section 5. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 6. All laws or parts of laws which conflict with this Act are repealed.

Section 7. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 7, 1973.

Time: 4:20 P.M.

Act No. 1015 H. 1308—Hill, Flippo

AN ACT

To provide for a state supplement to the Chief Deputy District Attorney in the 11th Judicial Circuit.

Be It Enacted by the Legislature of Alabama:

Section 1. The salary of the Chief Deputy District Attorney of the 11th Judicial Circuit shall be supplemented by the State of Alabama in the amount of Forty-Five Hundred ($4,500) Dollars payable as the salaries of other state officers are paid. The supplement hereby authorized is to be in addition to the salary of the Chief Deputy District Attorney of the 11th Judicial Circuit as provided in Act No. 538, H. 1050, Regular Session (Acts 1971, p. 1265).

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 7, 1973.

Time: 4:20 P.M.

Act No. 1016 H. 1321—Mathews

AN ACT

To make an appropriation for the payment of expenses of the Legislature.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated from any funds in the state treasury not otherwise appropriated the sum of $500,000.00 for the payment of the expenses of the Legislature. This appropriation shall be in addition to any appropriations heretofore or hereafter made for this purpose.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 4:23 P.M.

Act No. 1017 H. 1652—Benton

AN ACT

Relating to the Twenty-eighth Judicial Circuit; providing for an additional circuit judge in such circuit.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby created an additional judgeship for the Twenty-eighth Judicial Circuit, which shall be designated judgeship No. 2. The existing judgeship shall be designated judgeship No. 1. An additional judge shall be elected at the election year 1974, who shall take office at the time newly elected officers take office in the year 1975, and shall hold office until his successor is elected and qualified as provided in Article VI, Section 158 and 159 of the Constitution of Alabama. The judge for the additional judgeship shall be elected thereafter as are other circuit judges of this State.

Section 2. The judge elected as provided in Section 1 of this Act shall have and shall exercise all of the jurisdiction, power, right and authority; shall possess all of the qualifications; shall perform all of the duties required; and shall be subject to all of the pains and penalties of such office as the other judge is subject to in the same circuit.

Section 3. The compensation of such judge shall be paid in the same amount and under the same terms and manner as that of the other judge in the circuit.

Section 4. The judge may appoint a bailiff and a court reporter whose qualifications, powers, duties and authority shall be the same as such other bailiffs and reporters of the circuit court and whose compensation shall be in the same amount and under the same terms and manner as other bailiff and reporter of the Twenty-eighth Judicial Circuit.

Section 5. The existing judgeship in said circuit shall be designated as judgeship No. 1 and the additional judgeship created by this Act shall be designated as judgeship No. 2. The present judge shall be the presiding judge until the expiration of his term of office and thereafter the judge who has been in office as circuit judge for the longest period of time shall be the presiding judge, but if neither of them has been in office longer than the other, the Chief Justice of the Supreme Court shall name the presiding judge. Candidates for the office of circuit judge in said circuit shall designate whether they are candidates for the office of circuit judge No. 1 or for the office of circuit judge No. 2.

Section 6. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 7. All laws or parts of laws which conflict with this Act are repealed.

Section 8. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 5, 1973.

Time: 4:20 P.M.

Act No. 1018 H. 2138—Coshatt, Reid (R)

AN ACT

Relating to the thirtieth judicial circuit; providing for additional circuit court judge in such circuit.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby created an additional judgeship for the thirtieth judicial circuit, which shall be designated as judgeship number 2. The existing judgeship shall continue to be designated as judgeship number 1. An additional judge shall be appointed for the circuit by the Governor, within ten days after the effective date of this act, who shall hold office until his successor is elected and qualified as provided in Article VI, Sections 158 and 159, of the Constitution of Alabama. The judge for the additional judgeship shall be elected thereafter as other circuit judges in this state.

Section 2. The judge appointed or elected as provided in Section 1 of this act shall have and exercise all the jurisdiction, power, right and authority; shall possess all of the qualifications; shall perform all of the duties required; shall have all of the authority to appoint reporters, clerical help and other court officers allowed by law; and shall be subject to all the pains and penalties of such office as the other circuit judge is subject to in the same circuit.

The present judge shall be the presiding judge until the expiration of his term of office, and after the expiration of his term of office the judge who has been in office as circuit judge the longest shall be the presiding judge, but if neither of them has been in office longer than the other the chief justice of the supreme court shall name the presiding judge. Candidates for the office of circuit judge in said circuit shall designate whether they are candidates for the office of circuit judge number one or for the office of circuit judge number two.

Section 3. The compensation of such judge, including expense allowances and supplements, shall be paid in the same amount, from the same sources, and under the same terms and manner as that of the other judge in the circuit.

Section 4. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. All laws or parts of laws which conflict with this act are repealed.

Section 6. This act shall become effective immediately upon its approval by the Governor or upon its otherwise becoming a law.

Approved September 7, 1973.

Time: 4:20 P.M.

Act No. 1019 H. 2034—Agee, McCorquodale

AN ACT

Relating to the First Judicial Circuit; designating each county solicitor or assistant district attorney in each county composing the circuit as a deputy district attorney, and providing that all such deputy district attorneys shall be entitled to receive equal shares of any funds appropriated by the state for the compensation of deputy district attorneys.

Be It Enacted by the Legislature of Alabama:

Section 1. In all counties composing the First Judicial Circuit, the county solicitor or assistant district attorney in each county shall be designated as a deputy district attorney, and each such deputy district attorney so designated as such shall be entitled to receive an equal share of any funds now or hereafter appropriated by the state for the compensation of deputy district attorneys.

Section 2. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 10, 1973.

Time: 5:10 P.M.

Act No. 1020 H. 2213—Williams, Porter, Chesnut

AN ACT

To re-divide the state into judicial circuits so as to create a Thirty-eighth Judicial Circuit consisting of Jackson County and to create a new judgeship and a new district attorney's position.

Be It Enacted by the Legislature of Alabama:

Section 1. The State of Alabama is divided into judicial circuits for the circuit courts, numbered and composed of the counties as follows: First Circuit—Choctaw, Clarke and Washington; Second Circuit—Butler, Crenshaw and Lowndes; Third Circuit—Barbour and Bullock; Fourth Circuit—Bibb, Dallas, Hale, Perry and Wilcox; Fifth Circuit—Chambers, Macon, Randolph and Tallapoosa; Sixth Circuit—Tuscaloosa; Seventh

Circuit—Calhoun and Cleburne; Eight Circuit—Limestone and Morgan; Ninth Circuit—Cherokee and DeKalb; Tenth Circuit—Jefferson; Eleventh Circuit—Lauderdale; Twelfth Circuit—Coffee and Pike; Thirteenth Circuit—Mobile; Fourteenth Circuit—Walker; Fifteenth Circuit—Montgomery; Sixteenth Circuit—Etowah; Seventeenth Circuit—Marengo, Greene and Sumter; Eighteenth Circuit—Clay, Coosa and Shelby; Nineteenth Circuit—Autauga, Chilton and Elmore; Twentieth Circuit—Henry and Houston; Twenty-first Circuit—Escambia; Twenty-second Circuit—Covington; Twenty-third Circuit—Madison; Twenty-fourth Circuit—Fayette, Lamar and Pickens; Twenty-fifth Circuit—Marion and Winston; Twenty-sixth Circuit—Russell; Twenty-seventh Circuit—Marshall; Twenty-eighth Circuit—Baldwin; Twenty-ninth Circuit—Talladega; Thirtieth Circuit—Blount and St. Clair; Thirty-first Circuit—Colbert; Thirty-second Circuit—Cullman; Thirty-third Circuit—Dale and Geneva; Thirty-fourth Circuit—Franklin; Thirty-fifth Circuit—Conecuh and Monroe; Thirty-sixth Circuit—Lawrence; Thirty-seventh Circuit—Lee; Thirty-eighth Circuit—Jackson.

Section 2. The incumbent judge of the Ninth Judicial Circuit residing in the county composing the newly created Thirty-eighth Judicial Circuit shall continue in office and shall serve as the judge of the Thirty-eighth Judicial Circuit until the expiration of the term for which he was elected; and thereafter a judge of such circuit shall be elected at the same time and for the same term of office as other circuit judges of the state are elected.

Section 3. The incumbent judge residing in one of the counties remaining in the Ninth Judicial Circuit shall continue to serve as judge of such circuit until the expiration of the term for which he was elected. Such judge shall be the only judge of the Ninth Judicial Circuit until a judge for the additional judgeship for such circuit provided for by this Act is elected and takes office.

Section 4. There shall be an additional judgeship for the Ninth Judicial Circuit which shall be established upon the election and qualification of a judge who shall be elected at the next general election for any state officer for a term to expire at the next general election for circuit judges; and thereafter a judge for the additional judgeship shall be elected at the same time for the same term of office as other circuit judges of the state are elected.

Section 5. The existing judgeship in the Ninth Judicial Circuit is hereby designated "Judgeship, Place No. 1," and the judgeship hereby created is designated "Judgeship, Place No

2." The judge who has been in office as circuit judge the longest shall be the presiding judge, but if neither of them has been in office longer than the other, the chief justice of the Supreme Court shall name the presiding judge. Candidates for the office of circuit judge in the Ninth Judicial Circuit shall designate in their announcements of their candidacy the number of the judgeship for which they are candidates.

Section 6. A district attorney for the newly created Thirty-eight Judicial Circuit shall be appointed by the Governor for a term to expire at the next general election for state officers or until his successor is elected and qualified. At the general election for state officers to be held in November, 1974, and every four (4) years thereafter said district attorney shall be elected by the qualified electors composing said judicial circuit in the same manner as other district attorneys in the state are elected.

Section 7. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 8. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 9. This Act shall become effective on January 1, 1974.

Approved September 10, 1973.

Time: 5:10 P.M.

Act No. 1021 H. 1138—McCorquodale, Lyons

AN ACT

To amend further Section 3 of Act No. 654 adopted at the 1965 Regular Session of the Legislature of Alabama, as heretofore amended, so as to reallocate the revenues derived from the tax authorized by the said Act and to appropriate so much of the said revenues as may be necessary for the retirement of additional bonds of the State Industrial Development Authority not exceeding $2,000,000 in aggregate principal amount.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 3 of Act No. 654 adopted at the 1965 Regular Session of the Legislature of Alabama, as heretofore amended, is hereby amended further to read as follows:

"Section 3. All revenues collected under the provisions of this Act shall be paid into the State Treasury and shall be

set apart and used for the following purposes only and in the following order:

(a) So much thereof as may be necessary for such purpose is hereby appropriated and shall be used by the State Treasurer to pay at their respective maturities the principal and interest that will mature during the then current fiscal year on all bonds at the time outstanding that may have been issued by the State Industrial Development Authority under the provisions of the following Acts: (1) Act No. 662 adopted at the 1965 Regular Session of the Legislature; (2) Act No. 231 adopted at the 1967 Regular Session of the Legislature; (3) Act No. 168 adopted at the 1969 Regular Session of the Legislature; and (4) Act No. 1420 adopted at the 1971 Regular Session of the Legislature; and (5) The Act that was introduced as Bill No. at the 1973 Regular Session of the Legislature.

(b) The balance thereafter remaining during each fiscal year shall be paid into a special fund in the State Treasury to be designated the "General and Mental Health Fund," and is hereby appropriated and shall be distributed as follows: (1) sixty percent (60%) of the said balance shall be expended by the State Health Officer, with the approval of the State Board of Health, for salaries, other expenses, and equipment purchases incident to general health work; (2) thirty percent (30%) of the said balance shall be paid to the Board of Trustees of the Alabama State Hospitals to be expended by the said Board of Trustees for such purposes as it may designate for the benefit of the said hospitals; and (3) ten percent (10%) of the said balance shall be paid to the Board of Managers of the Partlow State School to be expended by the said Board of Managers for such purposes as it may designate for the benefit of the said school."

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 10, 1973.

Time: 5:00 P.M.

Act No. 1022 S. 137—King, Vacca, McLain, Horne, Noonan, Weaver, Pierce, Lybrand, Jones

AN ACT

To amend Title 52, Section 166 of the Code of Alabama of 1940; to provide that the city board of education shall adopt written policies

with regard to education; to provide for the manner in which such policies shall be adopted; to provide that such written policies shall be made available to all teachers employed by the board; and to provide that such written policies and written amendments thereto shall be filed with the state superintendent of education.

Be It Enacted by the Legislature of Alabama:

Section 1. Title 52, Section 166 of the Code of Alabama of 1940 is hereby amended to read as follows:

"Section 166. Control of city schools. The city board of education shall, upon the written recommendation of the city superintendent of education, determine and establish a written educational policy for the city and shall prescribe rules and regulations for the conduct and management of the schools. Before adopting written policies the board shall directly, or indirectly through the superintendent, consult with the professional organization representing the majority of the certified employees, and in addition shall also consult with professional assistants, principals, teachers, and interested citizens. The city board must, on or before August 1, 1974, establish such policies and adopt such rules and regulations and file them with the state superintendent of education on or before September 15, 1974. Such written policies, rules and regulations, so established, adopted, or promulgated shall be made available on or before September 15, 1974, to all teachers employed by the city board. Any subsequent amendments to such policies, rules and regulations shall be developed in the same manner, filed with the state superintendent and furnished to the teachers employed by the local board within twenty (20) days after adoption thereof."

Section 2. All laws or parts of laws in conflict herewith are hereby repealed.

Section 3. This act shall become effective upon its passage and approval by the governor or upon its otherwise becoming a law.

Approved September 10, 1973.

Time: 5:00 P.M.

Act No. 1023 S. 138—King, Vacca, McLain, Horne, Noonan, Weaver, Pierce, Lybrand, Jones

AN ACT

To amend Title 52, Section 73 of the Code of Alabama of 1940; to provide that the county board of education shall adopt written policies with regard to education and to provide that such written policies shall be made available to all employees of the board.

Be It Enacted by the Legislature of Alabama:

Section 1. Title 52, Section 73 of the Code of Alabama of 1940, is hereby amended to read as follows:

"Section 73. Educational Policy of the County. The county board of education shall, upon the written recommendation of the county Superintendent of education, determine and establish a written educational policy for the county and shall prescribe rules and regulations for the conduct and management of the schools. Before adopting written policies the board shall directly, or indirectly through the superintendent, consult with the professional organization representing the majority of the certified employees, and in addition shall also consult with professional assistants, principals, teachers, and interested citizens. The county board must, on or before August 1, 1974, establish such policies and adopt such rules and regulations and file them with the state superintendent of education on or before September 15, 1974. Such written policies, rules and regulations, so established, adopted, or promulgated shall be made available on or before September 15, 7974, to all teachers employed by the county board. Any subsequent amendments to such policies, rules and regulations shall be developed in the same manner, filed with the state superintendent and furnished to the teachers employed by the local board within twenty (20) days after adoption thereof."

Section 2. All laws or parts of laws in conflict herewith are hereby repealed.

Section 3. This Act shall become effective upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved September 10, 1973.

Time: 5:00 P.M.

Act No. 1024 S. 461—Shelby

AN ACT

To provide for supplementing the salaries or compensation paid to retired or supernumerary Circuit Judges in judicial circuits composed of one county and having not less than four nor more than six Circuit Judges.

Be It Enacted by the Legislature of Alabama:

Section I. Any supernumerary Circuit Judge or retired Circuit Judge in any judicial circuit now or hereafter composed

of any one county and having not less than four nor more than six Circuit Judges shall be entitled to receive as additional compensation payable from the treasury of the county, a sum equal to 25% of the compensation paid said judge by the state of Alabama. The salaries or compensation provided for herein is supplementary to the salaries or compensation paid such judges by the state and shall be paid out of the general funds of the county in twelve equal monthly installments on warrants properly drawn against such funds.

Section II. This act shall become effective February 1, 1977.

Approved September 10, 1973.

Time: 5:00 P.M.

Act No. 1025 S. 506—Shelby

AN ACT

To create the office of Ex-officio Judge of any County Court exercising original jurisdiction over general misdemeanors in Judicial Circuits composed of only one county and having a population of not less than 110,000 people nor more than 160,000 people according to the last and any subsequent decennial Federal census; to prescribe the powers, duties and authority of the Ex-officio Judge; to provide for the appointment of such Ex-officio Judge, the fixing of his salary, and the furnishing of quarters, supplies and assistants to him, and to provide a Supervisory Board, and prescribe its authorities and responsibilities.

Be It Enacted by the Legislature of Alabama:

Section 1. In Judicial Circuits in Alabama composed of only one county and having a population of not less than 110,000 people nor more than 160,000 people, according to the last or any subsequent decennial Federal census, the office of Ex-officio Judge of all county courts exercising original jurisdiction over general misdemeanors is hereby created.

Section 2. A Supervisory Board is hereby created. Said Supervisory Board shall be composed of all of the Circuit Judges of said County, the Judges of all county courts in said county, the Probate Judge of said county, the Public Defender of said county and the District Attorney of said county. The Chairman of this Supervisory Board shall be the Presiding Circuit Judge of said county. In addition to the duties and authorities of the Supervisory Board as elsewhere set out in this Act, it shall be the authority and duty of the Supervisory Board to advise the Ex-officio Judge in matters of law and to direct such officer in the general conduct of the office.

Section 3. The office of Ex-officio Judge shall be subject to the general supervision of the Supervisory Board, and such officer shall hold office subject to the provisions of the Civil Service or Merit System of the county.

Section 4. The Ex-officio Judge shall be an officer of the county, appointed by the Supervisory Board as other officers of the county subject to civil service or merit system of the county are chosen or appointed, except, however, that any such Ex-officio Judge holding such office at the time of the passage of this Act shall be the first such Ex-officio Judge under this Act, and shall be deemed to hold permanent status as such civil service or merit system officer.

Section 5. It shall be the duty of said Ex-officio Judge, or his duly and legally constituted assistant or assistants to issue legal process from said court, to take affidavits and to issue warrants of arrest returnable to such court, to examine complaints and witnesses and to examine into facts preliminary to the issuance of a warrant of arrest as required by law, and to fix bail in all cases where a person charged with crime is entitled to bail under any warrant of arrest issued by him and to keep a record of all warrants handled by him as Ex-officio Judge. Said Ex-officio Judge or his duly and legally constituted assistant or assistants shall be such magistrates as have power and authority to issue search warrants.

Section 6. Suitable space and stationery, equipment supplies and assistants necessary for the conduct of said office shall be furnished by the Board of County Commissioners, Board of Revenue, or like governing body of the County to the Ex-officio Judge.

Section 7. The Supervisory Board shall have the authority to recommend the salary or any increase or decrease thereof, but the Board of County Commissioners shall have the authority to set the salary or salaries in the customary manner. Provided, however, it shall not be less than $10,000.00 nor more than $15,000.00 per annum; which sum shall be paid from the general fund of the county in equal installments as salaries of other county officers are paid.

Section 8. The Supervisory Board is hereby empowered to recommend the employment of an assistant to the Ex-officio Judge, or as many such assistants to the Ex-officio Judge as the Supervisory Board may deem to be necessary and desirable, and such assistant or assistants to the Ex-officio Judge shall have the same power and authority as herein granted to the Ex-officio Judge in the absence of the Ex-officio Judge or when acting under the direction and supervision of the Ex-officio Judge. Such assistant or assistants may be full time or part

time officials as said County Commissioners shall decide or deem advisable.

Section 9. The assistant or assistants for such Ex-officio Judge shall be covered by the civil service or merit system of such county.

Section 10. The assistant or assistants of the Ex-officio Judge shall receive such compensation as the County Commission shall deem to be reasonable and proper, and in this determination the County Commission shall be guided by, but not bound by, the recommendation of the Ex-officio Judge and the Supervisory Board. Such compensation shall be payable out of the general fund of the county as compensation of other county officers are paid.

Section 11. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 12. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 10, 1973.

Time: 5:00 P.M.

Act No. 1026 S. 611—Bailes

AN ACT

To Repeal Section 17 of Act No. 1594, Regular Session 1971, thereby applying the provisions of this act to counties with populations of 600,000 inhabitants or more.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 17 of Act No. 1594, Regular Session 1971, is hereby repealed.

Section 2. All laws or parts of laws which conflict with this act are hereby repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor or its otherwise becoming a law.

Approved September 10, 1973.

Time: 5:10 P.M.

Act No. 1027 S. 805—Carr

AN ACT

To provide for two deputy district attorneys for the 27th judicial circuit and their compensation and appointment.

Be It Enacted by the Legislature of Alabama:

Section 1. There shall be two deputy district attorneys for the 27th judicial circuit. The salary of said two deputy district attorneys shall not exceed $14,400.00 per annum and each shall be paid $3,600.00 per annum from the State General Fund and as much per annum out of the general fund of Marshall County as may be set by the legislature. The deputy district attorneys herein authorized shall be appointed by the district attorney of said judicial circuit and shall serve at his pleasure.

Section 2. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 3. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 10, 1973.

Time: 5:10 P.M.

Act No. 1028 S. 855—Fine

AN ACT

Relating to counties having populations of not less than 23,900 nor more than 24,450 according to the most recent federal decennial census; to authorize the board of registrars to meet for 60 days in addition to the number of days now provided by law for the purpose of implementing the federal court's plan of reapportionment; to authorize the county commission to appoint additional personnel and clerical help to work under the board of registrars, to determine tthe compensation of such personnel and to pay such compensation from the general fund of the county.

Be It Enacted by the Legislature of Alabama:

Section 1. The provisions of this Act shall apply to all counties having populations of not less than 23,900 nor more than 24,450 according to the most recent federal decennial census.

Section 2. The board of registrars are authorized to meet for not more than 60 days in addition to the number of days now provided by law, as the county commission may prescribe, for the purpose of implementing the federal court's plan of reapportionment.

Section 3. The county commission is authorized to provide additional personnel and clerical help, to work under the directions of the board of registrars, as may be necessary to carry out the purposes of this Act and the compensation shall be set by the county commission and paid from the general fund of the county.

Section 4. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. All laws or parts of laws which conflict with this Act are repealed.

Section 6. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 10, 1973.

Time: 5:10 P.M.

Act No. 1029 S. 862—Weaver

AN ACT

Relating to all counties having populations of not less than 65,000 nor more than 68,000; providing further for the salaries of certain deputies in the office of the sheriff.

Be It Enacted by the Legislature of Alabama:

Section 1. In all counties having populations of not less than 65,000 nor more than 68,000 according to the most recent federal decennial census, each full time deputy sheriff shall receive a minimum salary of $600 per month, and the two chief deputies shall each receive a minimum salary of $700 per month, to be paid out of any funds of the county available for such purposes.

Section 2. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 10, 1973.

Time: 5:10 P.M.

Act No. 1030 S. 876—Wilson

AN ACT

Relating to all counties having populations of not less than 55,500 nor more than 56,500 inhabitants according to the most recent federal decennial census, fixing the base salary for the secretaries in the offices of the Judge of the Inferior Court, the Intermediate Court, and the District Attorney's Office.

Be It Enacted by the Legislature of Alabama:

Section 1. In all counties having populations of not less than 55,500 nor more than 56,500 inhabitants according to the most recent federal decennial census, the secretaries in the offices of the Judge of the Inferior Court, Intermediate Court, and District Attorney's Office shall receive a monthly salary of not less than 400.00 dollars, nor more than 600.00 dollars, to be paid out of the general fund of the county.

Section 2. All laws or parts of laws which conflict with this act are repealed.

Section 3. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 10, 1973.

Time: 5:10 P.M.

Act No. 1031 S. 885—Register

AN ACT

To authorize the county commission in Houston County to regulate the planning and construction of all public streets, public roads, and drainage structures located or to be located in subdivisions of land and Mobile home parks situated outside the corporate limits of any municipality in the county.

Be It Enacted by the Legislature of Alabama:

Section 1. The county commission of Houston County is authorized to regulate the planning and construction of all public streets, public roads and drainage structures located or to be located in subdivisions of Land and Mobile Home Parks situated outside the corporate limits of any municipality in the county, including the power to require the filing and posting of a reasonable surety bond with such governing body by the developers of such subdivisions to guarantee the actual construction and installation of such approved proposed public streets, public roads and drainage structures before the sale or offering for sale of any lots from such subdivision to the public. The county commission may require the developers of all proposed subdivisions of lands situated outside the corporate limits of any municipality in the county to submit the plat of such proposed subdivision to the county commission of the county for approval before such plat is filed for record in the office of the judge of probate.

Section 2. If any such public street, public road or drainage structure is erected, constructed or maintained in violation of the provisions of this Act or any regulations made pursuant thereto, the county may institute appropriate action or proceedings to prevent such unlawful erection, construction or maintenance, or to require such erection, construction, or maintenance to conform to the regulations prescribed therefor.

Section 3. All laws or parts of laws which conflict with this Act are repealed.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 10, 1973.

Time: 5:10 P.M.

Act No. 1032 S. 887—Register

AN ACT

To repeal Act No. 2262, S. 1234, Regular Session 1971 (Acts 1971, p. 3643), entitled "An Act to provide for a personnel appeals board for every county having a population of not less than 56,500 nor more than 59,000, according to the most recent federal decennial census; to prescribe the qualifications, terms, duties, and compensation of its members; and to provide rules relating to political activities by employees of said counties."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 2262, S. 1234, Regular Session 1971 (Acts 1971, p. 3643), entitled "An Act to provide for a personnel appeals board for every county having a population of not less than 56,500 nor more than 59,000, according to the most recent federal decennial census; to prescribe the qualifications, terms, duties, and compensation of its members; and to provide rules relating to political activities by employees of said counties," is hereby repealed.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 10, 1973.

Time: 5:10 P.M.

Act No. 1033 S. 889—O'Bannon

AN ACT

To provide for an investigator in the district attorney's office of the Thirty-First Judicial Circuit.

Be It Enacted by the Legislature of Alabama:

(1) The district attorney for the thirty first judicial circuit is hereby authorized to appoint an investigator for such office. Such additional investigators may from time to time be appointed by the district attorney as in the opinion of the district attorney and the governing body of the county comprising such circuit may deem necessary. Such investigators shall serve at the pleasure of the district attorney.

(2) The investigators shall have the same authority and powers vested in deputy sheriffs and all other law-enforcement officers of the state of Alabama. They shall be responsible to the district attorney and shall perform all duties assigned to them by such official.

(3) Compensation of said investigator, or investigators, shall be a minimum of $7,200.00 and a minimum of $10,000.00. The salaries shall be paid from the general fund of Colbert County, as other county employees are paid.

(4) The governing body of the county in which such circuit is located shall purchase from the general fund upon the application of the district attorney for the use of such investigators equipment and supplies including automobiles, radioes

(radios) and other electronic equipment, which are necessary in the proper performance of their duties and pay for such other expenses which are reasonably necessary in the suppression of crime, the apprehension of criminals and the duties assigned them. The governing body of such county shall be responsible for the maintenance and upkeep of such equipment.

Approved September 10, 1973.

Time: 5:10 P.M.

Act No. 1034 S. 926—Baker

AN ACT

To provide an additional expense allowance for the Judge of the County Court of Cherokee County.

Be It Enacted by the Legislature of Alabama:

Section 1. The judge of the County Court of Cherokee County is hereafter provided an additional expense allowance of two hundred dollars per month, to be paid out of the county treasury, to be expended in carrying out the duties of his position. Said expense allowance shall be in additional to any and all other salary, compensation or expense allowance provided by law.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 10, 1973.

Time: 5:10 P.M.

Act No. 1035 S. 927—Baker

AN ACT

Relating to Cherokee County; to provide further for the salaries of the tax assessor and tax collector of Cherokee County.

Be It Enacted by the Legislature of Alabama:

Section 1. Commencing with the next term of office of the tax assessor and tax collector of Cherokee County their salary shall be $8,400 per annum payable out of the county general fund as are the salaries of otther county officials.

Section 2. All laws or parts of laws which conflict with this Act are repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 10, 1973.

Time: 5:10 P.M.

Act No. 1036 S. 928—Baker

AN ACT

To amend the title and Section 1 of Act No. 1159, S. 873, Regular Session 1969 (Acts 1969, p. 2168), as amended, which fixes the compensation of the judge of probate and the sheriff in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 1159, S. 873, Regular Session 1969 (Acts 1969, p. 2168) is amended to read as follows:

"An Act to fix the compensation of the judge of probate in all counties having populations of not less than 15,400 and not more than 15,625 according to the last or any subsequent federal decennial census and to provide an effective date to begin at the next term of office."

Section 2. Section 1 of said Act No. 1159, S. 873, is amended to read as follows:

"Section 1. In all counties having populations of not less than 15,400 and not more than 15,625 according to the last or any subsequent federal decennial census the judge of probate shall be entitled to a salary of eight thousand four hundred dollars ($8,400.00) per annum."

Section 3. All laws or parts of laws which conflict with this Act are repealed.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 10, 1973.

Time: 5:10 P.M.

Act No. 1037 S. 929—Baker

AN ACT

Relating to Cherokee County; to provide that all house trailers must have an identification tag on them even though said house trailer has been assessed for ad valorem taxation as part of the realty.

Be It Enacted by the Legislature of Alabama:

Section 1. In Cherokee County each house trailer must have the identification tag provided for in Act No. 44, H. 53, 1961 Special Session, (Acts 1961, p. 1897) as amended, attached to the rear of said trailer regardless of whether said house trailer has been assessed for ad valorem taxation as part of the realty.

Section 2. This Act shall become effective on October 1, 1973.

Approved September 10, 1973.

Time: 5:10 P.M.

Act No. 1038 H. 1005—Jones (F), Harris, Lyons, Bowers, Weeks, Bank, Lutz, Headley, Hughes, Wood, Waldrop, Hill, Turnham

AN ACT

To create a uniform military code by rewriting Sections 1-185 and Sections 203-349 of Title 35, Code of Alabama and amendments thereto, to provide for the Alabama National Guard and naval militia and to provide for the Alabama State Guard; to provide for the training, regulation, maintenance and appropriations therefor; to establish the state military department and the office of the Adjutant General and to prescribe the duties, authority, and power of such department and office; to establish a uniform code of military justice and to provide other authority incidental to the proper establishment and maintenance of the Alabama National Guard, naval militia, and the Alabama State Guard.

Be It Enacted by the Legislature of Alabama:

Section 1. Definitions.—The following definitions shall be used in construing, interpreting, enforcing, and applying the provisions of this act or any provision of any other act affecting the militia, the military department, or any parts thereof: *Armed Forces of the State of Alabama:* National Guard, to include Army and Air, Alabama State Guard, Naval Militia; *National Defense Act:* Title 32, United States Code, and amendments thereto, and that body of laws enacted by Congress relating to the reserve components of the Armed Forces

of the United States, and amendments thereto, heretofore or which may hereinafter be enacted; *Regulations of the Department of Defense:* All regulations or directives issued by the Secretary of Defense or by the appropriate secretary of a service in the Department of Defense, including the Chief of the National Guard Bureau; *Uniform Code of Military Justice:* Chapter 47, Title 10, United States Code, and all amendments heretofore or hereinafter enacted, and all executive orders and regulations pursuant thereto; *Unit designations:* headquarters, company, troop, battery, battalion, flight, group, brigade, squadron, regiment, division, wing, or other unit designation used by the National Guard shall be in accordance with the common usage or regulations of the United States Armed Forces.

Section 2. Composition and administration of militia.—The militia of this state shall consist of all able-bodied male citizens, and all other able-bodied males who have declared their intention to become citizens of the United States, between the ages of seventeen and forty-five, and who are residents of the state, and of such other persons, male and female, as may upon their own application, be enlisted or commissioned therein pursuant to any provisions of this act, subject, however, to such exceptions and exemptions as are now, or may hereafter be created by the laws of the United States, or by the legislature of this state, it being specifically provided that, in the event federal laws, or rules and regulations promulgated pursuant thereto, authorize and permit service in units or organizations of the organized militia, as hereinafter defined, by persons of more than forty-five years of age, such persons are hereby authorized to continue to service in the organized militia for so long as may be allowed by such laws, rules or regulations, all other conditions, qualifications or requirements as to eligibility for service being complied with. All affairs pertaining to the state military forces shall be administered by a state military department, which shall be headed by the adjutant general, who shall be responsible to the governor as commander-in-chief.

Section 3. Divisions of militia; composition of organized militia. — The militia of the state shall be divided into the organized militia, the retired list and the unorganized militia, which together shall constitute the state military forces. The organized militia shall be composed of an army national guard and an air national guard which forces, together with an inactive national guard, shall comprise the Alabama national guard; the Alabama naval militia; and the Alabama state guard, whenever any such force is organized by the governor pursuant to existing laws. The national guard, army or air, shall consist of such organizations and units as the commander-in-chief may from time to time authorize to be formed, all to

be organized in accordance with the laws of the United States affecting the national guard, army and air, and the regulations issued by the appropriate secretary of the department of defense.

Section 4. Composition of naval militia.—The naval militia of Alabama shall consist of the regular enlisted militia between the ages of eighteen and forty-five years organized, armed and equipped as hereinafter provided, and commissioned officers between the ages of twenty-one and sixty-four; but enlisted men may continue in the service after the age of forty-five and until the age of sixty-four years, provided the service is continuous.

Section 5. Composition of unorganized militia.—The unorganized militia shall consist of all able-bodied male resident citizens of the state and all able-bodied resident males of like ages who have declared their intention to become citizens of the United States between the ages of seventeen and forty-five, and of such other persons, male and female, as may, upon their own application, be enlisted or commissioned therein, subject to any existing law, who are not serving in any force of the organized militia and who are not on the state retired list.

Section 6. Exemption from militia duty—The officers, judicial and executive, of the government of the United States and the state of Alabama, persons in the armed forces of the United States, custom house clerks, persons employed by the United States in the transmission of the mails, artisans and workmen employed in the armories, arsenals and navy yards of the United States, pilots and mariners actually employed in the sea service or any citizen or merchant within the United States shall be exempt from militia duty without regard to age, and all persons who because of religious belief shall claim exemption from military service if the conscientious holdings of such belief shall be established under such regulations as the president of the United States or the governor of Alabama shall prescribe shall be exempted from the militia service in a combatant capacity, but no person so exempted shall be exempt from militia service in any capacity that the president of the United States or governor of Alabama shall declare to be non-combatant.

Section 7. Maintenance of other troops.—In time of peace the state shall maintain only such troops as may be authorized by the president of the United States, but nothing in this act shall be construed as limiting the rights of the state in the use of the national guard and state guard and equipments issued the national guard by the state and the United States within its boundaries in time of peace, and nothing contained in this

act shall prevent the organization and maintenance of state police or constabulary.

Section 8. The Alabama State Guard.—In the event of all or part of the national guard of Alabama being called, drafted or ordered into the service of the United States, the governor is hereby authorized to organize, equip, train and maintain, only during periods when the national guard of Alabama is in the federal service, at such strength and in such organizations and branches of the service as he may deem advisable, a temporary military force designated as the Alabama State Guard similar to the national guard and organized for the same state purposes, and, if authorized by federal laws, shall be organized, maintained and trained under the provisions of the national defense act for the organization, maintenance and training of the national guard: Provided that comparable organizations shall be disbanded and discharged from the service of the state on the release or discharge of the national guard of Alabama, or units thereof, from the federal service and return to its national guard status.

Section 9. Alabama state guard to be under State control. —In the event the provisions of Section 8 hereof become operative, then the governor and the adjutant general shall have all the power, authority, duties and rights in relation to the Alabama state guard as they have in relation to the national guard of Alabama not in federal service, and all sections of this act so applying shall likewise apply to the state guard, except that the state guard shall be free from any federal control and those provisions of this act relating to such federal control or regulations shall not apply to the organization, maintenance or training of the state guard when called to duty as the Alabama state guard.

Section 10. Appropriations for the Alabama State guard.— (a) All regular military appropriations made for the purpose of recruiting, organizing and maintaining the national guard of Alabama or naval militia, shall, in the event the national guard is disbanded, abandoned or called to federal active duty, be available and is hereby appropriated to the Alabama state guard for the same purposes and for the purpose of organizing, maintaining and training the Alabama state guard under complete state control. (b) Special military appropriations made for the purpose of paying costs incident to emergency state military service are hereby made available for the purposes of paying the expenses of the Alabama state guard.

Section 11. Exemption from jury duty.—Owing to liability to call for military duty during their term of service, every officer and enlisted man of the national guard, naval militia, and

Alabama state guard when activated in lieu of the national guard, shall be exempt from state jury duty during his active membership, any local or special laws to the contrary notwithstanding. The commanding officer of any unit shall furnish each member of his unit applying for same such certificate of membership as may be prescribed by the adjutant general, signed by such commanding officer, which certificate shall be accepted by any court as proof of exemption as provided by this law. Such certificate shall be effective for the calendar year in which it is issued, or until such member is discharged or separated, whichever is sooner.

Section 12. Distinctive automobile tags for National Guardsmen.—There shall be exempt from the operation of the privilege or license tax and registration fee now or hereinafter to be levied on automobiles and motor vehicles by the State of Alabama, one passenger vehicle owned by any active member of the Alabama National Guard or the Alabama state guard when organized in lieu of the national guard. Each active member of the national guard shall be entitled to such exemption for only one such vehicle and such exemption extends only to distinctive national guard license tags. Such exemption shall be claimed upon presentation of proper identification on forms prescribed by the adjutant general. Active members of the national guard may obtain additional distinctive license tags for other passenger vehicles which they own by paying the regular privilege or license tax provided by law. Retired members of the Alabama National Guard may obtain one or more distinctive license tags for passenger vehicles which they own upon presentation and proper identification on forms prescribed by the adjutant general and by paying the regular privilege license tax as provided by law.

Section 13. Service benefits.—(a) Military leave for government employees — All officers and employees of the state of Alabama, or of any county, municipality, or other agency or political subdivision thereof, or officers or employees of any public or private business or industry who shall be active members of the Alabama national guard, naval militia, or the Alabama state guard organized in lieu of the National Guard, or of any other reserve component of the Armed Forces of the United States, shall be entitled to military leave of absence from their respective civil duties and occupations on all days that they shall be engaged in field or coast defense or other training or on other service ordered under the provisions of the *National Defense Act,* or of the federal laws governing the United States reserves, without loss of pay, time, efficiency rating, annual vacation, or sick leave, but no such person granted such leave of absence with pay shall be paid for more

than twenty-one working days per calendar year, and such persons shall be entitled, in addition thereto, to be paid for no more than twenty-one working days at any one time while called by the governor to duty in the active service of the state. This section shall apply to all schools and institutions of learning supported by state funds. (b) Credit for active service—Service in the national guard or naval militia of Alabama when called, drafted, or ordered into the service of the United States shall be considered as equivalent service in the Alabama national guard or naval militia for any and all state purposes regarding privileges, honors, pay, allowances, and exemptions provided by law for members of the national guard and naval militia of Alabama.

Section 14. Bonds for persons responsible for public property or money.—(a) Any person to whom public or military property is issued at any time, or to whom any public money is paid, or who disburses any such funds; may be required to give bond in a surety company conditioned faithfully to perform the duties of his office in such amounts and under such rules and regulations established by the adjutant general; to use all care in the safekeeping of military stores and property committed to his custody, to account for the same and to deliver to his successor, or to any other person authorized to receive the same, all such military property, and to properly account for all public money received by him, and for all public money disbursed; the bonds to be approved by the adjutant general, and the premiums thereon to be paid by the state; provided, that no person shall be held liable for loss of public money deposited in any state or national bank, said loss being occasioned by reason of failure of such bank or the forfeiture of its charter. This provision shall be retroactive in all cases recommended by the state military advisory board and approved by the governor. (b) Liability of bonded persons for losses—No commissioned officer or other person giving bond for the safekeeping of military arms or other public or military property is to be held liable for loss by fire, riot, or insurrection, or other casualty of the service, unless held liable by a board of survey or a surveying officer who shall be appointed by and whose findings shall be approved by the governor.

Section 15. Depositories or arsenals.—The governor shall when necessary designate a depository, or depositories, for the undistributed military property of the state, or in the custody of the state, which same shall be maintained at the expense of the state. Any portion of any regular appropriation for the support of the military department and militia which is unexpended and unobligated after the expiration of the eleventh month of any fiscal year shall be available for use in building,

rebuilding, repairing, enlarging, equipping, and maintaining a centrally located depository, arsenal, military warehouse, shop, and garage for the purposes named above and for the upkeep and repair of such property, and shall also be available for the payment of expenses and obligations of the armory commission of Alabama in carrying out its duties, or for providing necessary office furniture, equipment, or supplies for the headquarters and units of the Alabama national guard, in accordance with priorities established by the adjutant general.

Section 16. Expenses of officers and other persons while traveling under military orders to be paid.—Any officer or enlisted man of the armed forces of the state detailed for duty by the governor and while performing such duty, under travel orders by the governor, or the adjutant general, shall be paid the same amount of per diem as a federal active duty officer or enlisted man would be allowed.

Section 17. Protection of the uniform.—It shall be unlawful for any person not an officer, warrant officer, or enlisted man of the United States armed forces to wear the duly prescribed uniform or any distinctive part thereof of the uniform of the United States armed forces, within the boundaries of the State of Alabama: Provided that the foregoing provisions shall not be construed so as to prevent officers, warrant officers, or enlisted men of the national guard or naval militia, or such other organizations as the secretary of defense shall designate from wearing the prescribed uniform; nor to prevent persons who in time of war have served honorably as officers of the United States armed forces, regular or volunteer, whose most recent service was terminated by an honorable discharge, muster-out, or resignation, from wearing, upon occasions of ceremony, the uniform of the highest grade they held by brevet or other commission in such regular or volunteer service; nor to prevent any person who has been honorably discharged from the United States armed forces, regular or volunteer, from wearing his uniform from the place of his discharge to his home within three months after his discharge; nor to prevent the members of military societies composed entirely of honorably discharged officers, warrant officers or enlisted men or both of the United States armed forces, regular or volunteer, from wearing upon occasions of ceremony the uniform duly prescribed by such societies to be worn by the members thereof; nor to prevent the instructors and members of the duly organized cadet corps of a state university, state college, or public high school offering a regular course in military instruction from wearing the uniform duly prescribed by the authorities of such university, college or public high school, or for wear by instructors or members of a

duly organized cadet corps of any other institution of learning offering for wear by such instructors and members of such cadet corps, nor to prevent civilians attendant upon a course of military or naval instruction authorized by the military or naval authorities of the United States from wearing while in attendance upon a course of the uniform authorized and prescribed by such military authorities during such course of instruction; nor to prevent any person from wearing the uniform of the United States armed forces in any playhouse or theater or in a moving picture film while actually engaged in portraying thereon military or naval character not tending to bring discredit upon the United States armed forces provided further that, the uniform worn by officers and enlisted men of the national guard or by members of the military societies or the instructors and members of the cadet corps referred to in the preceding provision shall include the distinctive mark or insignia prescribed by the secretary of defense to distinguish such uniform from the uniform of the United States Armed Forces: And provided further that nothing in this act shall prohibit the uniformed rank of fraternal societies parading or traveling in a body or assembling in a lodge room: Provided further that whenever the national guard, or a part thereof, is in active service, no fraternal organization or members thereof shall parade or appear in uniform in the locality where said national guard is in service: And, provided further that this section shall not apply to cadets or boy scouts. Any person who violates any provision of this section is guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than ten or more than two hundred and fifty dollars, or by imprisonment in the county jail for not exceeding sixty days, or by both fine and imprisonment.

Section 18. Wearing foreign uniforms.—(a) It shall be unlawful for any person to appear in any public place or in the public view attired in any uniform similar to that worn by the military, semi-military, naval, police, storm troop or other official or semi-official forces of any foreign state, nation or government, or attired in any distinctive part or parts of such a uniform and to assemble with other persons similarly attired in any camp, drill ground or other place for the purpose of engaging in military drill or training or other military purposes. (b) It shall be unlawful for any person to appear in any public place or in the public view attired in the uniform or wearing the distinctive garment of any association of persons of whatsoever nature or form which engages in, adopts, or imitates the drill formations, salutes or other methods or practices or the symbols of any foreign military, semi-military, naval, police, storm troop or similar foreign organization, and, so attired to assemble with other persons

similarly attired in any camp, drill ground or other place for the purpose of engaging in military drill or training or other military practices. (c) It shall be unlawful for the proprietor, manager or keeper of any place of public meeting, resort or amusement to permit therein any assemblage of persons attired as prohibited in this section. (d) This section shall not apply to the officers or members of the military, semi-military, naval, police or other official or semi-official forces of any foreign state, nation or government lawfully within the state of Alabama, any veterans' organization chartered by act of congress, the boy scouts of America, any student of any school or academy recognized by the board of education of the state of Alabama nor to the members of the cast of any stage or motion picture production characterizing the officials of a foreign state, nation or government; provided, however, that in any prosecution hereunder it shall be presumed that a person (1) wearing the uniform of a foreign state, nation or government or of any of its official or semi-official forces or (2) attired in any distinctive part or parts of such a uniform, was not at the time of the alleged violation of this section a member of any of the organizations excepted herein.

Section 19. Penalty.—Any person who knowingly violates any of the provisions of the preceding section shall upon conviction, be subject to a fine of not more than one thousand dollars, or imprisonment for not more than one year, or to both such fine and imprisonment.

Section 20. Uniform not to be discriminated against.—Any proprietor, manager, or employee of any public place within this state who discriminates against any person lawfully wearing the uniform of any branch of the armed forces of the United States or the state of Alabama because of that uniform shall be guilty of a misdemeanor.

Section 21. Protecting troops from disloyal or insulting remarks.—When troops of any branch of the armed forces of the United States or the state of Alabama are at drill in their respective armories, on the streets, public roads, or other places where such drills are conducted, or while going to or returning from such duty, or when they are performing other duties required of them by the United States or the state of Alabama, it shall be unlawful for any person to make any disloyal or insulting remark, either to or about said troops or to make any motion, or gesture calculated to insult or humiliate said troops because of their being in such service, and any person guilty of making such disloyal remarks or of making any such sign, motion, or gesture, for the purpose and in the manner aforesaid shall be guilty of a misdemeanor.

Section 22. Arms and equipments to be deposited in armories.—All arms, equipment, and ordnance stores which shall be furnished to the several commands under the provisions of this act shall be deposited in the armories, headquarters, or grounds of said commands for safekeeping.

Section 23. Care of equipments and arms by officers.—All commissioned officers of the national guard and naval militia of this state shall exercise the strictest care and vigilance for the preservation of the equipments, arms, and uniforms and military property furnished to their several commands under the provisions of this act; and in case of any loss thereof or damage thereto by reason of the neglect or default of any such officer to exercise such care and vigilance he shall be liable to trial by courts martial for neglect of duty.

Section 24. Officers accountable and responsible for military property.—Any officer receiving public property for military use shall be accountable and responsible for the articles so received by him, and he shall not transfer such property, or any portion thereof, to another, either as a loan or permanently, without the authority of the adjutant general, but the adjutant general shall have authority to order this transfer, either as a loan or permanently, whenever in his discretion the good of the service requires it, of any property of the state in the custody of the militia between different units and headquarters. An officer shall be liable to make good to the state all such property defaced, injured, destroyed, or lost by any neglect or default on his part in an action instituted in the name of the state by the attorney general when so requested by the adjutant general. The adjutant general shall be the exclusive custodian of all state property in the custody of the militia, or of any unit or headquarters thereof, and he shall maintain a perpetual inventory thereof, and shall prescribe reasonable rules and regulations for the care, accountability, responsibility, and disposition thereof.

Section 25. On muster out of company, officers to return property to the state.—Upon the disbandment of any organization which has received arms, equipments or stores from the state in accordance with the provisions of this act, the commissioned officers of such organizations shall be responsible for the safe return to the custody of the adjutant general of all public property in possession of said organization, and for any loss or damage thereto, compensation shall be obtained from the officer responsible for such property in the manner provided in the preceding section.

Section 26. Military property not to be used for private purposes.—No officer or enlisted man shall use except upon

military duty or by special permission of his commanding officer any articles of military property belonging to the United States or the state of Alabama, and upon the use of such property for private purposes, without legal authority, shall be guilty of a misdemeanor.

Section 27. Wearing the uniform while not on duty.—Any member of the national guard or naval militia of Alabama who shall wear the uniform or equipment, or any part of articles of uniform or equipment, issued by the United States, or owned by the state of Alabama, while not on duty, without authority, shall be punished as a courts-martial shall direct.

Section 28. Officers and enlisted men personally liable for military property.—Every officer and enlisted man to whom any articles of military property are delivered in pursuance of the provisions of this act, shall be held personally responsible for its care, safeguarding and return. He shall use the same for military purposes only, and upon receiving discharge or otherwise leaving the military service, or upon demand of his commanding officer shall forthwith surrender and deliver up the said property to the said commanding officer in as good order and condition as the same was at the time of receiving it, reasonable use and ordinary wear thereof excepted.

Section 29. Punishment for injury to military property.—Whoever shall wilfully or maliciously destroy, injure or deface any arms or articles of military property belonging to the United States, or the state of Alabama shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not exceeding double the value of the property so injured or defaced, or may be imprisoned in jail for not more than one year, either or both.

Section 30. Seizure of illegally possessed military property.—The clothes, arms, accoutrements, and military property of every character furnished by, or through, the state to any member of the armed forces of the state shall not be sold, bartered, loaned, exchanged, pledged, or given away; and no person not a member of the armed forces of the state or the United States, or duly authorized agent of this state or the United States, who has possession of such clothes, arms, accoutrements, and military equipment so furnished, and which have been the subject of any such unlawful disposition shall have any right, title, or interest thereof, but the same shall be seized and taken wherever found by any military officer of the state, and shall thereupon be delivered to any commanding officer or other officer authorized to receive the same, who shall make an immediate report to the adjutant general. The possession of any such clothes, arms, accoutrements, and military equipments by any

person not a member of the armed forces of this state, or any other state, or the United States, shall be presumptive evidence of such sale, barter, loan, exchange, pledge or gift.

Section 31. Retaining property.—Any person who sells, purchases, retains, or has in his possession or custody without right any military property belonging to this state or the United States, or any unit of the armed forces of the state, and who after proper demand refuses to deliver the same to any officer entitled to take possession thereof, is guilty of a misdemeanor; and any person belonging to the armed forces of the state who, contrary to the order of the proper officer, retains in his possession or control any military property of this state or of the United States is guilty of a misdemeanor. Any commanding officer may take possession of such military property mentioned in this section wherever the same may be found, and upon conviction of either such misdemeanor the guilty party shall be fined a sum equal to double the value of the articles in question. When a commander knows the whereabouts of any such person unlawfully retaining such property, he may make a written request on the sheriff of the county in which the person may be located to seize such property, giving a full description of such property, and any sheriff receiving such a request shall promptly seize such property if the person and the property be found in his county and forward the same to the officer making the request; the sheriff or other officer making such seizure shall be entitled to receive compensation therefor as for like service in civil cases together with necessary expenses of transporting such property, the same to be paid in the same manner as provided for other fees in section 107 of this act. Provided however any person claiming lawful possession of ownership of property thus seized may at any time within six months bring suit for the recovery thereof or monetary value against the officer directing its seizure. Such suit may be brought either in the county of seizure or in the county where the defendant resides, but such property shall not be restored to such claimant until after final judgment in his favor, unless he makes bond with sufficient surety for double the value of the property involved.

Section 32. Selling or pawning property furnished.—Whoever shall secrete, sell dispose of, offer for sale, or in any manner pawn or pledge, or buy any of the military arms, uniforms, or equipments, the property of the United States or the state of Alabama, knowing or having reason to believe the same to be the property of the United States or the state of Alabama, shall be deemed guilty of a crime, and on conviction shall be punished as though he had stolen the same.

Section 33. Replacement of lost or damaged property.—

Whenever any military property of the United States or the state of Alabama shall have been lost, damaged or destroyed, and upon report of a disinterested survey officer, it shall appear that the loss, damage, or destruction of property was due to carelessness or neglect, or that its loss, damage, or destruction could have been avoided by the exercise of reasonable care, the money value of such property shall be charged to the accountable and responsible officer, warrant officer, or enlisted man, and the pay of such officer, warrant officer, or enlisted man, from both federal and state funds at any time accruing, may be stopped and applied to the payment of any such indebtedness until the same is discharged.

Section 34. Reports concerning military arms and equipment.—Any officer, warrant officer, or enlisted man, or any other person who fails to make any report required of him by law concerning arms and other military equipments, or funds appropriated for military purposes, must on conviction be fined not less than fifty dollars.

Section 35. Notice when officer is unable to account for money or property; suit to recover.—Whenever it is ascertained by the adjutant general of the state or the United States property and fiscal officer, or the state property and disbursing officer of the national guard of Alabama, that any member of the armed forces of the state is unable properly to account for all property and money for which he is accountable and responsible he shall give immediate notice thereof to the attorney general of the state for action against such person and his bondsman, if applicable, and the attorney general is hereby authorized and required to bring such action.

Section 36. Custom and usage of the United States armed forces.—All matters relating to the organization, discipline, and government of the national guard and naval militia not otherwise provided by law or by regulations shall be decided by the custom and usage of the United States armed forces.

Section 37. Holding military or naval commission or membership in the armed forces of the state or reserve components of the United States shall not prevent a citizen from holding civil office.—Any citizen of this state may accept and hold a commission or warrant or enlisted membership in the armed forces of the state, and reserve components of the United States, without vacating any civil office, position, or commission held by him; and the acceptance or holding of any such military or naval commission or membership and receiving pay therefrom shall not constitute such holding of an office of privilege and trust under the government of this state and of the United States as shall be incompatible with holding of any

civil office, executive, legislative or judicial, or position or commission under the government of this state.

Section 38. Armed forces of the state in annual encampment and on annual cruise, respectively; rations furnished.—Subject to the restrictions of the *National Defense Act,* and federal laws governing the armed forces, the governor may annually order into the service of the state the whole or such portion of the armed forces of the state as he may deem proper; the period of such service to be fixed by the governor subject to the restrictions mentioned above. When ordered into the service of the state, when rations are not furnished by the United States government, the state shall furnish rations for the officers, warrant officers and men, of the same quality as rations furnished the armed forces of the United States, and pay such other expenses of said encampment or cruise as the governor may deem proper, including the traveling expenses of officers, warrant officers, and men incurred in obeying such orders, when such expenses are not paid by the government of the United States.

Section 39. Definition of "in the active military or naval service of the state."—The armed forces of the state ordered into the service of the state for the enforcement of the law, the preservation of the peace, or for the security of the rights and lives of citizens or protection of property in aid and relief of our citizens in disaster, or any similar duty, or any other service that the governor may for specific reasons so designate, shall be deemed to be in the active military or naval service of the state. Officers, warrant officers and enlisted personnel employed under orders of the governor or of the adjutant general in recruiting, making tours of instruction, inspection of troops, armories, storehouses, camp sites, rifle ranges and military property, sitting on general, special and summary courts-martial and deck courts, boards of examination, courts of inquiry, or boards of officers, making and assisting in physical examinations shall be deemed to be in the active military or naval service of the state when it is so specified in orders. Orders shall specify in every case if pay is to be allowed and what expenses incident to travel are authorized. In the discretion of the governor, ordered armory drills and other military or naval exercise and training, and periods of annual field training or annual cruises ordered and authorized by competent authority, may be construed as "in the active military or naval service of the state," but only if such duty is paid for solely from state funds and no federal funds are used.

Section 40. Emergency purchases.—No officer or member of the armed forces of the state shall incur any expenses whatsoever to be paid by the state, except such expenses as are au-

thorized in this act, without first obtaining the consent of the governor or of the adjutant general. Provided that in extreme emergencies, the commanding officer of any unit of the armed forces of the state in the active military or naval service of the state or undergoing field training may hire, rent, or make purchases of such necessities as are absolutely required for the immediate use and care of his command in the execution of such training or of the mission for which he is in the active military or naval service of the state. A report of such action, containing statement of the articles hired, rented, or purchased, the price thereof, and the necessity therefor, shall be immediately forwarded through channels to the adjutant general of the state, who shall forward such statement to the governor with his recommendations and if approved shall be paid out of the proper fund as if it had been purchased or contracted in the proper manner.

Section 41. Regulation as to sanitation.—The commanding officer of any camp or garrison shall enforce all state and federal sanitation laws within the limits prescribed in this section.

Section 42. National guard service medals.—Any present or former officer, warrant officer, or enlisted man who shall have faithfully served in the national guard or naval militia for an aggregate of six years, shall have conferred upon him the right to wear the "Faithful Service Cross", which shall be awarded by order of the governor and furnished at the expense of the state. Any officer, warrant officer, or enlisted man of the national guard or naval militia of this state who shall have served an aggregate of thirty days in the active military service of the state, in the aid of civil authorities in upholding the law and preserving order, protecting lives and property, in the aid and relief of our citizens in disaster and other similar service, duly ordered by the governor, shall have conferred upon him the right to wear the "Special Service Medal", which shall be awarded by order of the governor and furnished at the expense of the state. Any officer, warrant officer, or enlisted man of the national guard or the naval militia of this state who shall have faithfully served in the national guard or naval militia of this state an aggregate of twenty (20) years, shall have conferred upon him the right to wear the "Veterans Service Medal", which shall be awarded by order of the governor and furnished at the expense of the state. Service in the organizations of the national guard or naval militia called, drafted, or ordered into the service of the United States shall be credited as active service in the national guard or naval militia of this state for the purposes named in this section, when the soldier or sailor is a member of the

national guard or naval militia on the date of federal call, draft, or order, and this provision shall be retroactive so as to include service in any war or during acts of hostilities. The "Special Service Medal" may also be awarded for such special individual acts as the military advisory board may determine to be meritorious, and the governor may approve, without regard to period of time involved or date of the act.

Section 43. Retirement of officers, warrant officers, and enlisted men.—Retirement of officers, warrant officers and enlisted men from the Alabama National Guard shall be in conformity with the applicable statutes and regulations relating to the United States armed forces and reserve components thereof.

Section 44. Officers, warrant officers and enlisted men at the termination of war or emergency.—Officers, warrant officers and enlisted men of the national guard or naval militia of Alabama after being called, drafted or ordered into the federal service, shall, upon being relieved from active duty in the military and naval service of the United States, as individuals and units revert to their national guard or naval militia status and shall continue to serve in the national guard or naval militia until the dates upon which their enlistments entered into prior to the call, draft or order into the active service of the United States would have expired if uninterrupted.

Section 45. Limited expenses of organizations paid by state on federal call, draft or order.—Under the provisions of such rules and regulations as shall be approved by the governor, and for a period of not more than five days, following the day of call, draft or order into the service of the United States, the state of Alabama may pay from the special military appropriations of the state of Alabama any expenses that are deemed wise and just by the governor and necessary to the immediate comfort and health of the members of the national guard and naval militia of Alabama when such expenses cannot be authorized and paid by the federal government.

Section 46. Organizations temporarily in the United States service to retain state designation.—During the absence of any unit of the national guard or naval militia of Alabama in the service of the United States, its state designation shall not be given to a new organization.

Section 47. Unorganized militia ordered out for service.—The commander-in-chief may at any time, in order to execute the law, suppress riots or insurrections, or to repel invasion, or for the purpose of aid and relief of our citizens in disaster, in addition to the active national guard, the inactive national guard and the naval militia, order out the whole or any part

of the unorganized militia. When the armed forces of the state or a part thereof, is called to duty under the constitution and laws of the United States or the constitution and laws of this state, the governor shall first order out for service the national guard or naval militia, or such part thereof as may be necessary, and if the number available be insufficient, he may then order out such part of the unorganized militia, as he may deem necessary.

Section 48. Regulations governing the unorganized militia. —Whenever any part of the unorganized militia is ordered out for active military service, or other service which may be necessary in the discretion of the governor, it shall be governed by the same rules and regulations, and be subject to the same penalties as the national guard or naval militia. The governor, in his discretion, may appoint and commission emergency officers in the state militia at any time. Such commissions shall expire at the end of five years from the effective date thereof.

Section 49. Manner of ordering out unorganized militia.— The governor shall, when ordering out the unorganized militia, designate the number. He may order them out either by call for volunteers or draft. The unorganized militia may be attached to the several organizations of the national guard or naval militia, or organized into separate divisions, brigades, regiments, battalions, companies or detachments as the governor may deem best for service. He shall appoint the commissioned officers and warrant officers in the same manner as herein provided for the appointment of officers and warrant officers of the national guard and naval militia.

Section 50. Draft of unorganized militia.—If the unorganized militia is ordered out by draft, the governor shall designate the persons in each county or city who are to make the draft and prescribe rules and regulations for conducting the same, and which shall conform as nearly as possible to the selective service machinery that is now or may hereafter be provided for by the government of the United States in a national crisis.

Section 51. Punishment for failure to appear.—Every member of the militia ordered out for duty, or who shall volunteer or be drafted, who does not appear at the time and place ordered, shall be guilty of a misdemeanor.

Section 52. Commander-in-chief.—The governor of Alabama, or other person lawfully administering the duties of the office of the governor of the state, shall be commander-in-chief of all the military and naval forces of the state, except when they shall be called or ordered into the service of the United

States, and he shall have the power to embody the militia to repel invasion, suppress insurrection, and enforce the execution of the laws, but shall not command personally in the field unless advised to do so by resolution of the legislature.

Section 53. Powers of the governor.—The governor of Alabama, as commander-in-chief, shall have power and is hereby authorized and directed to alter, increase, divide, annex, consolidate, disband, organize or reorganize any organization, department, or unit, so as to conform as far as practicable to any organization, system, drill, instruction, type of uniform or equipment, period of enlistment now or hereafter prescribed by the laws of the United States and rules and regulations promulgated thereunder by the secretary of defense for the organization, armament, training and discipline of the militia or national guard, or by the secretary of the navy for the organization, armament, training, and discipline of the naval militia. For that purpose the number of officers, warrant officers and enlisted men of any grade in any organization, corps, detachment, headquarters or staff, may be increased or diminished and the grade and number of such officers, warrant officers, and enlisted men may be altered to the extent necessary to secure, as far as practicable, such conformity.

The governor, as commander-in-chief, shall have the power in case of war, invasion, insurrection, riot, tumult, breach of peace, natural disaster, or imminent danger thereof, to call or order all or any portion or class of the armed forces of the state into the active military or naval service of the state, to increase the land and naval forces of this state, and of organizing the same in accordance with the existing rules and regulations governing the armies of the United States, or in accordance with such other system as the governor may consider the exigency to require; and such organization and increase may be either pursuant to, or in advance of, any call, draft, or order of the president of the United States.

The governor may authorize all or any part of the national guard or naval militia to participate in any drill parade, review, or other public exercise, or to service for escort duty, and prescribe all regulations and requirements therefor, and such expenses incidental thereto as he may authorize, shall be paid as provided in this act, as for the militia in the active military or naval service of the state.

The governor of Alabama, as commander-in-chief, is hereby authorized and empowered to do and perform all acts, and to make and publish such rules and regulations, and to organize and maintain the national guard and the naval militia of Alabama in every respect up to the standards required by the

laws and regulations of the United States now existing or which may hereinafter be enacted for the benefit of the national guard and naval militia of the United States.

Section 54. The personal staff of the governor.—The personal military staff of the governor shall consist of one officer with the rank of colonel and as many other officers as the governor may consider appropriate with the rank of lieutenant colonel or commander, all of whom shall be appointed and commissioned by the governor and shall hold office at his pleasure. All such officers shall be commissioned in the state militia as aides de camp to the governor, but no such officer shall be barred, by reason of being a member of said staff, from holding an active commission in the Alabama national guard or the Alabama state guard or a reserve commission in the armed forces of the United States or any civil office or employment under this state or any agency or political subdivision thereof. No member of said staff shall by virtue of such membership exercise any command or control over any part of the Alabama national guard.

Section 55. Governor's flag.—There shall be a governor's flag of the following design and specifications. A flag of the same colors, dimensions, proportions and description as prescribed for the flag of the state of Alabama. In addition thereto, there shall appear in the field in the upper angle formed by the arms of the St. Andrew's cross, the coat of arms or great seal of the state of Alabama, and in the field in the lower angle formed by the arms of the St. Andrew's cross, there shall appear the military crest of the state of Alabama: Provided, that a governor's flag may be purchased out of the regular or special military appropriations of the state for each governor, or should he or his heirs so desire, the flag shall become his personal property or the property of his family at the expiration of his term of office, or at his death, should he die before his term of office is completed.

Section 56. Officers and enlisted men of the headquarters and headquarters detachment of the Alabama Army and Air national guard.—Officers and enlisted men of the headquarters and headquarters detachment of the Alabama army and air national guard shall be selected and appointed from among the active or inactive members of the national guard, by the adjutant general, in the same manner as for other units.

Section 57. Exhibitions, boxing, sparring and wrestling matches.—Exhibitions of various kinds and boxing, sparring, wrestling, and other athletic matches and contests may be held in the armories or on the adjacent grounds of any national guard or naval militia unit or post, under supervision and con-

trol of the board of control of such armory, provided such use does not interfere with the military or naval use of such armory or grounds. All revenues derived from the operation of such exhibitions, matches or contests, or from the lease of armories or adjacent grounds for such purposes shall be covered into the proper unit or station board of control fund, in accordance with regulations prescribed by the adjutant general. Units of the national guard or naval militia shall not be required to obtain any authority, permission, or license from any agency of the state or any political subdivision thereof to conduct or hold any such exhibitions, matches, or contests, or to lease armories or grounds to any person for the holding of such, and all such exhibitions, matches, and contests so held under authority of this act shall be exempt from the payment of any and every form of license or taxation, either state, county, or municipal. It shall be the duty of the adjutant general to promulgate and enforce rules and regulations governing such use of armories and grounds, leases thereof for such purposes, and the admissions or rentals to be charged therefor.

Section 58. Military department in time of war.—All members of the federally recognized headquarters and headquarters detachment, Alabama army and air national guard, who are full time military employees of the state, and such other members of the headquarters and headquarters detachment, Alabama army and air national guard, as the governor may deem necessary shall, if authorized by federal military laws and authorities when they or the national guard and naval militia are ordered into the federal service in case of a national crisis, be assigned to duty in the state headquarters in connection with the execution of any national selective service act, the *National Defense Act,* or any similar federal laws enacted for the purpose of inducting the manpower of this state and of the nation into the military, naval or other similar emergency service of the United States, and in connection with the organizing, training, and maintenance of temporary military forces by the state as "home guards" or similar forces, and in operating the state military department to the extent permitted by federal authorities and not inconsistent with their federal duties.

Section 59. The adjutant general.—The head of the military department shall be a commissioned officer of the national guard of Alabama and shall be designated as the adjutant general. He shall be designated and assigned to duty as the adjutant general by the governor and shall serve as adjutant general at the pleasure of the governor. He may be commissioned as an officer on the state staff, in the adjutant general's department, and he may have such rank as is now or may hereafter be provided for an officer of the state staff, adjutant

general's department, under the provisions of the national defense act and war department regulations promulgated thereunder. The officer of the national guard of Alabama assigned to duty by the governor as the adjutant general may be commissioned by the governor as a general officer in the national guard of Alabama, with the consent of the senate. The adjutant general shall be appointed from among active officers of the federally recognized national guard, and he shall have had at least six years service therein, two years of which must have been in the line, and shall have served as a commissioned officer in the active national guard for not less than four years. The adjutant general of the state shall be in direct charge of the military department and shall be responsible to the governor and commander-in-chief for the proper performance of his duties. All the powers conferred and duties imposed by law upon the adjutant general shall be exercised or performed by him under the direction and control of the governor. The adjutant general shall be chief of the state staff, national guard of Alabama, the personal staff of the governor, and similar military agencies of the state. He shall supervise the receipt, preservation, repair, distribution, issue and collection of all arms, military equipment, stores of the state and of the United States. He shall supervise all troops, arms and branches of the militia, such supervisory powers covering primarily all duties pertaining to the organization, armament, discipline, training, recruiting, inspecting, instructing, pay, subsistence and supplies. He shall maintain a roster of all the officers and men of the national guard and naval militia of the state and keep on file in his office copies of all orders, reports and communications received and issued by the military department in its several branches and sections. He shall, from time to time, cause the laws and all state regulations that may be written thereunder, to be printed, bound and distributed at the expense of the state. The adjutant general shall, from time to time, prepare and publish, by order of the governor, such orders, rules and regulations consistent with the laws as are necessary to bring the organization, armament, equipment, training and discipline of the various classes of the militia of Alabama to a state of efficiency as nearly as possible to that of the United States army and navy. He shall prepare such reports and returns as the secretary of war or the secretary of the navy of the United States may prescribe and require. He shall perform such other duties as may be required of him by the commander-in-chief, and the comptroller of Alabama shall draw warrants on the treasury for all expenses incurred under this section on bills regularly presented to, and approved by, the governor. It shall be the duty of the adjutant general, if ordered by the governor, to visit and inspect each company, troop, or battery at least once a year, and to report to the com-

mander-in-chief the condition of armories and other military buildings and properties, and of the arms, equipment and personnel of said organizations, and make such recommendations as he thinks proper in regard thereto. Provided, that, the adjutant general may designate members of the state staff or field officers of the national guard, as inspecting officers for the purposes in question. The adjutant general shall assist all persons residing in Alabama, or other states, having claims against the state or the United States for compensation, pension, retired pay, bounty or back pay, or service medals and decorations awarded by the United States, or the state of Alabama, where such claims and requests have arisen out of, or by reason of, service in any of the wars or insurrections concerning the United States or the state of Alabama. He shall furnish to claimants, or their accredited representatives, or assist them in procuring all necessary certificates and certified abstracts from the records and documents in the state military department and other departments of the state or the United States. Provided, that, any or all of these services shall be rendered without charge to the claimant. The adjutant general shall have a seal of office, to be approved by the commander-in-chief, and all copies of papers in his office duly certified and authenticated under the said seal shall be evidence in all cases in like manner as if the original were produced.

Section 60. Duties of the adjutant general in case of a national crisis when a national selective service or similar law would be operative in the state.—The adjutant general shall be qualified for commission and shall be commissioned, if authorized by the laws of the United States now or hereafter enacted, in the adjutant general's corps, or such other corps or branch of the service as will enable him to perform all duties required of him within the state by *national defense act*, a federal draft, selective service, or similar act, operative in a national emergency. He shall have a military status in this state, if provided by the laws of the United States, now or hereafter enacted, during periods in which the national guard of Alabama is in the federal service under a call, draft, order or other means of induction into the federal military or naval service, that will enable him to work in an advisory capacity, or other authorized capacity to the governor in the execution of a federal selective service or similar law, or such other office as may be authorized by the federal government, and in the performance of such duties, he shall be entitled to all allowances and to reimbursement for all expenses incident to the performance of his duties as may be provided in the military laws of this state: Provided, that, he shall not receive a state salary while in the active service of the United States and receiving a federal salary for such service. He shall, if called, drafted, or ordered into

the federal service, on discharge therefrom, revert to his state military status and such federal military status as may now or hereafter be provided by the military laws of the United States governing the national guard, on the day following his discharge from the active military service of the United States. Whenever the adjutant general is called, ordered or drafted into the service of the United States for any reason, or the office of the adjutant general becomes vacant for or because of any reason while all or a substantial portion of the national guard is in federal service, the governor may appoint an adjutant general to serve at the pleasure of the governor, with the consent of the senate. Such appointee may be selected and appointed without regard to the eligibility, qualifications and requirements as set forth in this act, but he shall have held a commissioned or noncommissioned grade in the national guard, or army of the United States or the United States navy, or such appointee may be a civilian without previous military status, to perform the duties of this office; such appointee shall be commissioned in the state militia with such rank as the governor may deem advisable. Upon the return of the national guard or a substantial portion thereof to state control such appointee may be commissioned by the governor as an officer of the state staff, in the adjutant general's corps, in the national guard of Alabama, and he may have such rank as is now or may hereafter be provided for an officer of the state staff, adjutant general's corps, under, in compliance with, and according to the provisions of any *national defense act* or acts now or hereafter enacted and department of defense regulations promulgated thereunder.

Section 61. Officers and employees in military department; organization of department.—The adjutant general may have to assist him in performance of his duties and to perform the various duties of the military department such number of officers and employees as may be approved by the governor, such officers and employees to be appointed by the adjutant general subject to the approval of the governor and subject to the provisions of the merit system wherever applicable, it being specifically provided that, if approved by the governor, such department organization may include the positions of deputy adjutant general, an assistant adjutant general for army, an assistant adjutant general for air and a state property and disbursing officer and military executive officer. The provisions of the merit system shall have application to all officers and employees of the department other than those serving in the active military service of the state under orders of the governor, who shall receive the same pay as an officer or enlisted man of the regular service of corresponding grade with corresponding length of service; provided however, that in the

event a person is designated to the position of deputy adjutant general, such person may occupy a position in the merit system in the state of Alabama or a national guard technician in the federal civil service system. All persons hereafter appointed as officers in the military department shall have served at least three years in the active Alabama national guard and should have military and civil education, training, and experience particularly fitting him for the position to which he is assigned.

The assignments, duties and authority of the officers and employees of the department shall be prescribed and assigned by the adjutant general, with the approval of the governor, and such department shall be so organized, and may be reorganized into appropriate sections, divisions or agencies as to conform to the wishes of the governor and the regulations and requirements of the national guard of the United States. The persons occupying positions as heads or chiefs of the various sections or divisions or holding other officers or positions in the department shall, if such persons qualify therefor, hold such military rank as may be authorized and approved for such positions by the governor and the national guard bureau of the United States, and if so authorized and approved those officers holding the position of deputy adjutant general, assistant adjutant general for army and assistant adjutant general for air shall be appointed to and hold the grade of brigadier general for the time they occupy such positions. Officers and employees of the state military department called, ordered, or drafted into the service of the armed forces of the United States for any reason shall be granted leave of absence from their employments therein for the time they are retained in such service and shall be reinstated in such or similar employments if they so desire, and if they apply in writing to the adjutant general for said reinstatement within twelve months after termination of the term of service on their original call, order, draft or enlistment into the federal service.

Section 62. Salaries in military department.—Salaries of officers and other employees of the military department shall be such as are now or may hereafter be provided by law. All salaries provided shall be paid in the same manner as salaries of other state officials and employees are paid, and may be paid out of any appropriations made for the expenses of the state military department.

Section 63. Military advisory board; membership.—There shall be a military advisory board consisting of all the active general officers of the line of the Alabama national guard, the adjutant general, the ranking judge advocate general of the Alabama national guard, not to exceed six additional ranking

officers of the line in the Alabama national guard in grades not lower than that of major, and such additional members last mentioned shall represent as far as shall be practicable the various branches of the service in the state having the largest number of officers, warrant officers, and enlisted men, but not more than one officer from any one branch shall be members of said board. Membership on said board shall be coterminous with active service in the Alabama national guard and in the office and assignment which caused an officer to be designated as a member of the board. The board shall be organized as, and its procedure shall be that of, a court of inquiry organized under the provisions of the *national defense act.*

Section 64. Meetings of military advisory board; compensation of members.—The military advisory board shall meet at such times as the governor shall deem their services necessary for the transaction of such military or naval business as may need their attention. The members of the military advisory board shall be paid pay in grade, to include all allowances, while in actual attendance at meetings of the board or in special individual duty ordered by the governor. All expenses and expenditures shall be paid out of the regular military appropriations. A majority of the military advisory board shall constitute a quorum for the transaction of business, and the board shall meet in the offices of the department of military and naval affairs of the state and such other places and at such times as may be designated by the commander-in-chief.

Section 65. Duties of military advisory board.—The military advisory board, cooperating with the adjutant general, shall constitute an advisory body to the governor and commander-in-chief on military and naval affairs pertaining to the state, and may advise concerning the necessary rules and regulations to be promulgated for the purpose of carrying out any military policies and plans that may be formulated and approved by the governor. The military advisory board may act in an advisory capacity to the adjutant general and the governor in matters relating to the problems of providing armories, arsenals, warehouses and other necessary buildings and grounds for military purposes and for units of the national guard and naval militia and in planning ways and means for procuring, constructing and providing maintenance funds for same. They may act in an advisory capacity to the adjutant general in the formulation of such policies and plans as he may submit to them concerning allotments, allocations, maintenance, administration, training and discipline to the militia of the state and any other matters that he may submit to them including plans, ways and means of organizing and maintaining the in-

active national guard, plans for raising the national guard and naval militia to war strength in case of an order into the federal service, and plans, way, and means of aiding the state and the United States in the administration and execution of any selective service or similar act that may be now or hereafter enacted by the federal government. They may, if requested by the adjutant general, cooperate with the department of military and naval affairs in writing and promulgating all articles, rules and regulations that may be written under the constitution and military acts of the state of Alabama for the benefit of the militia, which articles, rules and regulations, when approved by the governor, shall be published to the national guard and naval militia of the state, and shall have the force and effect of law.

Section 66. Reports made by the adjutant general to the governor.—On or before the first day of December next preceding the beginning of each regular session of the legislature of Alabama, the adjutant general shall prepare and submit to the governor a report covering the functioning of the state military department during the period since the last previous such report and ending the thirtieth day of September of the year in which the report is submitted, which report shall be transmitted by the governor to the legislature for its information and consideration. Said report shall include the number and condition of all arms and equipment belonging to the state, or in the custody of the state, for the use of the Alabama national guard and naval militia, statistics pertaining to the strength and organization of the Alabama national guard, naval militia, and state militia, information concerning armories, arsenals, warehouses, and similar structures and establishments, a detailed report of all funds and monies received and disbursed by the state military department, his recommendations as to needed legislation and appropriations, and such other information concerning the land and naval forces of the state as may be of value and interest to the governor, the legislature, and the public. Such report shall be printed and bound, and the expenses incident thereto shall be paid out of the appropriation to the military department.

Section 67. Bonds for the adjutant general and other employees of the department of military and naval affairs.—The adjutant general and such other employees of the department of military and naval affairs of the state who handle state or United States property, or state or United States funds, including the United States property and fiscal officer and the state property and disbursing officer, shall give bond in a surety company in such amounts as may be required by the state and the United States; the bonds to be approved by the governor,

and the premiums to be paid by the state, the conditions in the bonds to be as required by the state and the United States.

Section 68. Office rooms, expenses and furniture for the department of military and naval affairs.—The director of the department of finance shall assign to the adjutant general suitable offices and rooms for conducting therein the business of the department of military and naval affairs of the state, and this department shall be furnished furniture, stationery, postage, lights, heat and telegraph and telephone service, and other proper and necessary conveniences and emergency clerical assistants, in the same manner and way as is or may hereafter be provided and furnished to other state departments.

Section 69. Books, accounts and vouchers to be audited.—The books, accounts, and vouchers of the adjutant general and all other officers of the national guard of Alabama, handling state military property, or state military funds, shall be audited upon the direction of the governor in the same manner and under the same conditions as accounts and funds of other state officers are audited.

Section 70. Qualifications of national guard officers.—Officers of the armed forces of the state, including the adjutant general, shall be appointed, and shall be subject to suspension, discharge, removal, or compulsory retirement as such, solely on the basis of military proficiency, character and service, as determined by department of defense regulations and the military usages sanctioned by the military laws of the United States. The qualifications of personnel of the federally recognized national guard shall be as prescribed in pertinent regulations and policies of the United States department of defense.

Section 71. Officers to have powers and duties of United States officers.—In addition to the powers and duties prescribed in this act, all officers of the national guard and naval militia of Alabama shall have the same powers and perform the same duties as officers of similar rank and position in the armed forces of the United States insofar as may be authorized by federal law. They are authorized to administer oaths in all matters connected with the service.

Section 72. Appointment of staff officers whose headquarters are in other states.—Staff officers allocated to the Alabama national guard whose headquarters are situated in other states shall be appointed by the governor. The qualifications of candidates for such appointments shall be the same as is now required by law for the appointment of other officers of the Alabama national guard.

Section 73. General officers of the line.—General officers of the line shall be appointed under the rules and regulations of the department of defense, such officers shall be appointed by the governor from among active officers of the national guard of Alabama, with the advice and consent of the senate, and who have not less than six years active service in the national guard of Alabama. Vacancies in said offices caused by death, resignation, or removal, while the senate is not in session shall be filled by recess appointments by the governor; Provided, that should the vacancies in the grade of general officer of the line be in an organization in which the state of Alabama has joint interest with another state or states, the governor is authorized to enter into a conference through the department of military and naval affairs of the state with the other states concerned for the purpose of determining which state shall, with the concurrence of the other states, nominate the general officer to fill such vacancy in conformity with laws, rules and regulations of the state and the United States written under the provisions of the *national defense act:* Provided, further, that staff officers allotted to this state, who are members of organizations jointly organized with other states, and who are on the staff of general or other officers who are commissioned in another state that has joint interest in a unit of the national guard of this state, and whose appointment was approved by Alabama, shall be appointed by the governor under the rules and regulations written under the provisions of the *national defense act.*

Section 74. Appointment, promotions, and reductions of noncommissioned officers and enlisted personnel.—The appointment, promotion, or reduction in grade or rank of noncommissioned officers and enlisted personnel of the national guard shall be in conformity with the *national defense act* and regulations of the department of defense.

Section 75. Enlistments in the national guard.—Original enlistments, and reenlistments, in the national guard shall be for such periods as may by now or hereafter prescribed by congress or the secretary of defense under the provisions of the national defense act. Enlisted members shall not be recognized as members of the national guard until they have signed an enlistment contract, and taken and subscribed to the oath prescribed by congress or the secretary of defense under the provisions of the *national defense act.*

Section 76. Discharge of enlisted members.—An enlisted member discharged from the service in the national guard shall receive a discharge in writing in such form and with such recommendations as is or shall be hereafter prescribed by con-

gress or the secretary of defense under the provisions of the *national defense act.*

Section 77. Drills or training assemblies.—Each organization shall assemble for drill and instruction, including indoor target practice, and participation in encampments, maneuvers, and other exercises including outdoor target practice, at such times and places and for such periods as may be prescribed by the governor in accordance with the requirements of the department of defense regulations or acts of congress.

Section 78. Authorized service medals and decorations to be worn.—All service medals and decorations awarded for service in the United States armed forces, and authorized to be worn with the uniform of the United States armed forces, are authorized for the uniform of the national guard and naval militia of Alabama, on occasions prescribed for officers of the United States armed forces: Provided, that the following state medals and decorations are authorized for wear with the uniform of the national guard and naval militia of the State of Alabama: State service medals authorized in this act, medals and decorations awarded by recognized patriotic organizations such as are associated with the service of Revolutionary War ancestry; the War of 1812; the Mexican War; the Civil War, both confederate and federal service; the Spanish American War; the World Wars 1917-1918, 1941-1945; Korea, Vietnam, and such other medals and decorations as may be recommended by the military advisory board of the state and approved by the governor; provided further, that only one service medal, or similar insignia, each for the United States or state shall be worn for any one war. This provision shall not apply to decorations of the state or the United States, or foreign decorations, the award of which has been approved by the state and the United States, that are subject of individual citations, such as the medal of honor, distinguished service cross, distinguished service medal, the French croix de guerre, and similar decorations.

Section 79. Personal military property exempt from levy and sale.—The personally owned uniforms, arms and equipments, required by laws or regulations of every commissioned, warrant and noncommissioned officer, musician, and enlisted man of the armed forces of the state shall be exempt from sale under any execution or other process for debt or taxes.

Section 80. Exemption of persons in the military and naval service from arrest.—Members of the militia in the active armed forces of the state shall not be arrested on any process issued by or from any civil officer or court except in case of felony, or breach of peace, while going to, remaining at, or

returning from, any place at which he may be required to attend for military or naval duty; nor in any case whatsoever while actually engaged in the performance of his military or naval duties, treason and murder excepted, unless with the consent of his commanding officer.

Section 81. Exemption from taxation of all real and personal property owned or controlled exclusively by an organization of the national guard or naval militia.—All property, both real and personal, belonging to a unit of the armed forces of the state (officially recognized as such by the federal government) shall be exempt from ad valorem taxes, state, county and municipal. This exemption shall apply to real property when leased to any unit of the Alabama national guard, provided that the agreement or contract of lease is approved in writing by the adjutant general, while the same is under the custody and control of the said national guard unit, and said exemption shall not be vitiated should the national guard organization sublease a part of the premises, when the rental derived from such lease is used entirely and solely for the benefit of said national guard organization, and when such sublease or permissive use shall be subject to immediate termination by the national guard unit at the discretion of the governor.

Section 82. Post exchanges and canteens.—All post exchanges, or canteens owned, operated, and run exclusively by national guard units shall be exempt from the payment of all state, county, city or town licenses and taxes, and shall be exempt from payment of tobacco and gasoline tax to state, county, city or town when operated in accordance with such rules and regulations as the adjutant general may provide and the governor may approve, when the profits of such canteens or exchanges go to the national guard or naval militia units and not to the operators of such enterprises.

Section 83. Organizations not to leave state without permission.—No organization of the armed forces of the state shall go out of the state except by permission of the governor.

Section 84. Articles of war, when in active military service of the state.—Whenever any portion of the militia shall be called into the active service of the state to execute the law, suppress riot or insurrection, repel invasion, protect lives and property or in aid and relief of our citizens in disaster, the law, including the *uniform code of military justice,* the acts of congress and rules and regulations of department of defense and the regulations prescribed for the United States armed forces, shall be enforced and regarded as a part of this act until said forces shall be duly relieved from such duty; as to offenses committed when such articles are so in force, courts-martial

shall possess, in addition to the jurisdiction and power of sentence and punishment herein vested in them, all additional jurisdiction and power of sentence and punishment exercised by like courts under such laws including the *uniform code of military justice* and acts of congress and rules and regulations of the department of defense and the regulations or laws governing the United States armed forces, or the customs and usages thereof; but no punishment under such rules and regulations authorizing the taking of life shall in any case be inflicted except in time of war, invasion or insurrection, declared by a proclamation of the governor to exist, and then only after approval by the governor of the sentence inflicting such punishment. Imprisonment other than in guard house shall be executed in county or city jails or other prisons designated by the governor for that purpose.

Section 85. Right of troops to streets and highways; exceptions.—United States armed forces or any portion of the national guard or naval militia of Alabama parading or performing any duty, according to law. shall have the preferable right ing any duty, according to law, shall have the preferable right vided, that the carrying of the United States mails, the regular functions of the police, and the progress and operations of fire engines and fire departments shall not be interfered with.

Section 86. Compensation for injury, disability, and death. —(a) Injury and temporary disability. Every member of the National Guard who shall be wounded, injured, or temporarily disabled, whether by reason of injury, sickness, or disease, as a direct result of active military service for the state, as defined in paragraph (d) of this section shall be provided for and furnished necessary medical attention, hospitalization, medicines, and dressings at the expense of the state, and in addition thereto he shall be carried in the active military service of the state until maximum possible physical improvement has been reached, but not to exceed eighteen months; provided, that after the first sixty days the pay of such person shall be computed on the basis of his earnings in civilian life and in the manner prescribed by the workmen's compensation laws of Alabama in force at the time such injury or disability occurs, if his pay so computed would be greater than his pay prescribed under this act for active military or naval service for the state. (b) Permanent disability. Any member of the militia who shall be permanently disabled, either totally or partially, whether by wound, injury, sickness or disease, as a direct result of active military service for the state, so defined in paragraph (d) of this section, after having been provided for under provisions of paragraph (a) of this section until he has reached the maximum possible physical improvement, shall in

addition thereto be paid by the state compensation for such disability, the same to be computed in the same manner and on the same basis as shall be provided by the workmen's compensation laws of Alabama in force at the time such disability is caused; provided, that the earnings of the disabled person in his civil vocation shall be the basis for computing his compensation, but in no case shall the basis for computing such compensation be less than his rate of military or naval pay under this act. Dismemberment of any portion of the anatomy shall be considered as at least permanent partial disability and shall be compensated for by the number of weeks benefits provided for similar cases of dismemberment under such workmen's compensation laws. (c) Death. In cases of death resulting directly from active military service for the state, as defined in paragraph (d) of this section, the heirs of the deceased, as defined in said paragraph (d), shall receive the same compensation as shall be provided in the workmen's compensation laws of Alabama in force at the time of his death. The earnings of the deceased in his civil vocation shall be the basis for computing such compensation, but in no case shall the basis for computing such compensation be less than his rate of military or naval pay under this act. Burial expenses not to exceed five hundred dollars are authorized to be paid by the state. (d) Definitions. As used in this section, the term "active military service for the state" shall include service when called out in cases of riot, breach of peace, resistance to process, invasion, rebellion, insurrection, or imminent danger thereof, in aid of the civil authorities, and in cases of disaster, and shall also include periods of field training or similar training or annual cruises when paid solely from state funds, and no federal funds, pay or allowances are authorized, and where no federal duty is involved; and shall not include any service in a paid or non paid federal training status. The definitions of "permanent total disability" and "permanent partial disability" set out in the applicable workmen's compensation laws shall govern in cases arising under this section except as herein otherwise specified. The terms "Heirs of the deceased" or "dependent" as used in this section shall mean dependents of the deceased as defined in the applicable workmen's compensation laws, if there be any such dependents; if there be no such dependents, then the term "heirs of the deceased" shall be as defined by the laws of descent and distribution, and in such cases the compensation payable shall be as for a dependent widow, and such compensation shall not be subject to the payment of the debts or liabilities of the deceased. (e) Procedure. The adjutant general, with the approval of the governor, will prescribe reasonable rules and regulations for the administration of the provisions of this section; provided, that each claim

for compensation under paragraphs (b) and (c) shall before payment be referred to a board of inquiry, composed of not less than one nor more than three officers, for investigation and recommendations, such board to be appointed by the adjutant general either before or at the time any claim is presented; service on such board shall be "in the active military or naval service of the state" and expenses of such board shall be paid out of the appropriation authorized in this act; persons having or claiming an interest in the compensation payable hereunder in any case shall be notified of the time and place of hearings of such board of inquiry and afforded an opportunity to be present and present evidence in support of their claims. All duties of the adjutant general, governor, and other state officials and employees in connection with the payment of compensation due under this section shall be considered as "ministerial", except as to the manner of payment. Claims for compensation due under this section shall be forever barred unless presented to the adjutant general within two years after the claim accrues, or within two years after the last payment of any benefits under this section, or unless mandamus proceedings have been commenced within such period of time and after the end of six months to enforce payment thereof. (f) Manner of payment. All compensation, pay and expenses authorized under this section shall be paid from any moneys in the general treasury not otherwise appropriated, provided that the director of finance is authorized to reinsure the state's risk of liabilities under this section with the state insurance fund or any private insurance or bonding company authorized to do business in Alabama and to pay the premiums therefor out of any funds in the general treasury not otherwise appropriated. Pay due under paragraph (a) of this section shall be paid monthly. Compensation payable under paragraphs (b) and (c) of this section shall be payable either monthly or in a lump sum, or both, at the discretion of the adjutant general with the approval of the governor, and no discount shall be made in cases of payment in lump sums, provided that the adjutant general, with the approval of the governor, may at any time change the method of payment to a lump sum payment, and provided further that the board of inquiry investigating each case shall make recommendations as to manner of payment of compensation. Payments of compensation and expenses under this section shall be on itemized, verified vouchers approved by the adjutant general and the governor, supported by itemized invoices or receipts, and accompanied, in cases where a board of inquiry is required, by a certified copy of the report of the board of inquiry.

Section 87. National Guard claims.—Awards by the state board of adjustment on claims filed for damages caused by

members of the national guard of Alabama while acting in line of duty in the active military service of the state shall be paid from appropriations of the state military department or from the state general fund when the appropriations of the state military department are deemed inadequate for such payment by the state board of adjustment.

Section 88. Training with the national guard of other **states.—For the purpose of coordinating and making more** effective the field and similar classes of instruction and training in organizations of the national guard jointly maintained by Alabama and other state or states during periods of field or similar training, as provided under the *national defense act,* the units and personnel of the Alabama national guard may, if authorized by the federal government, be placed under the supervision and command of higher organization commanders, who are now or may hereafter be appointed from other states, and whose appointment has the approval of this state, and the states concerned, and the officer recognized by the federal government, provided, that this requirement shall not be carried **out unless and until the state or states** jointly interested in a national guard organization with Alabama shall have enacted a similar law; provided further, that the objects of this section may be carried out with the consent of the governor, without regard to similar laws enacted by other states, with the advice and approval of the ranking line officer of the Alabama national guard present at the place of training and instruction and in command of the Alabama troops concerned: And provided further, that for the purpose of fixing the time limits of the periods mentioned in this section, the period of training shall begin when all the Alabama troops concerned have been reported as in the camp or place of instruction and training and establishment in their company streets or quarters, and shall end when the Alabama troops concerned have terminated their field training schedule, or other program of training or instruction and are reported as ready to leave the boundaries of the camp or training area for their home stations; provided further, that Alabama troops shall not be required to yield authority and supervision of matters concerning transportation, in or out of the camp or other military area, finance and supply and which concern Alabama only in her relations with the federal government and for which the state is directly responsible to the federal government; provided further, that the commanding officer appointed from another state, and such other officers of his command as he may designate, who are members of organizations in which Alabama has joint interest with other states, and who are appointed and recognized in accordance with laws, rules and regulations, prescribed by the federal government, may, with the approval of

the governor, make tours of inspection and policy visits with the units of their organizations of the national guard of Alabama at their home stations, or at other places, at such times as are mutually agreeable, it being understood that the state is not responsible or liable from any expenses incident to such visits.

Section 89. Pay when in "Active military service of state." —Officers, warrant officers, and enlisted personnel of the national guard and naval militia, when employed in the active military or naval service of the state as defined and provided in this act, are entitled to pay for such service, which will begin on the day of assembly at the armories or other designated places and will continue until the day of return thereto and proper relief. Fractional parts of a day will count as a full day. The reckoning of a day will be from midnight to the subsequent midnight. Pay of officers, warrant officers and enlisted personnel of the national guard shall be that rate now or hereafter authorized by the department of defense for members of the regular armed forces of the United States while the national guard is on active military service for the state, but no member paid under provisions of this section shall be paid less than one and one half times. the applicable federal minimum wage computed on the basis of an eight hour work day, which is declared to be the minimum rate of pay under this section. Each officer, warrant officer and enlisted person will be provided with subsistence or rations while in the active service. The purchase of this subsistence will be made in accordance to such regulations as the governor may prescribe. Pay as defined in this section shall include length of service, pay and allowances for quarters, and other entitlements. The pay and subsistence authorized by this section shall be paid out of the general treasury, and not from the regular military appropriations provided for organization, maintenance and upkeep of the national guard and naval militia. Warrants in this connection will be issued by the comptroller on vouchers or payrolls, as may be required by the governor as commander-in-chief, accompanied by copies of the orders authorizing service. Before payment, payrolls and vouchers shall be certified by the adjutant general and approved by the governor.

Section 90. No action allowed against officers and enlisted men on account of military duties.—No action or proceedings shall be prosecuted or maintained against a member of a military court or officer, or person, acting under its authority, or reviewing its proceedings, on account of the approval or imposition or execution of any sentence or any warrant, writ, execution, process or mandate, or a military court, nor shall any officer or enlisted man be liable to civil action or suit or

criminal prosecution for any act done while in the discharge of his military duty, which act is in line of duty.

Section 91. Governor to appoint counsel.—If a suit or proceedings shall be commenced in any court by any person against any member of the national guard of this state for any act done by such member in his official capacity, in the discharge of any duty under this act, or against any member acting under the authority or order or any officer or by virtue of any warrant issued pursuant to law, it shall be the duty of the governor to appoint counsel to defend such person, but such counsel shall be acceptable to the defendant. The cost and expense of any such defense shall be paid out of the regular or special appropriations for the maintenance of the national guard, in the discretion of the governor.

Section 92. Security for costs.—Any person bringing an action or proceeding against a member of the national guard of this state for any act done while in discharge of his military duty, shall give security for the costs and reasonable attorney's fees incurred by the state or defendant in defending the same and in the same manner and subject to the same regulations, so far as applicable in the case of a non-resident plaintiff, and if the plaintiff fails to recover such attorney's fees may be taxed with the costs and judgment therefor be entered against him and his sureties on the bond.

Section 93. Courts-martial for members of the national guard.—Courts-martial for organizations of the national guard not in the service of the United States, shall be of three kinds: Namely, general corts-martial, special courts-martial and summary courts-martial. They shall be constituted like, and have cognizance of the same subjects, and possess like powers, except as to punishments, as similar courts provided for by the uniform code of military justice, and the proceedings of courts-martial of the national guard shall follow the forms and modes of procedure prescribed for like courts organized under said unform code of military justice.

Section 94. General courts-martial.—General courts-martial for the national guard, not in the service of the United States, shall be convened by the governor of the state, and such courts shall have the power to impose fines not exceeding two hundred dollars; to sentence forfeiture of pay and allowance; to a reprimand; to dismissal or dishonorable discharge from the service; to reduction of noncommissioned officers in grade or to the ranks; or any two or more of such punishments may be combined in the sentence imposed by such courts.

Section 95. Special courts-martial.—In the national guard, not in the service of the United States, the commanding officer

of each garrison, fort, post, camp, air base, auxiliary air base, or other place where troops are on duty, or of a brigade, regiment, wing, group, detached battalion, separate squadron, or other detached command, may appoint special courts-martial for his command; but such special courts-martial may in any case be appointed by superior authority when by the latter deemed desirable. Special courts-martial shall have the power to try any person subject to military law, except a commissioned officer, for any crime or offense made punishable by the military laws of the United States, and such special courts-martial shall have the same powers of punishment as do general courts-martial, except that fines imposed by such courts shall not exceed one hundred dollars.

Section 96. Summary courts-martial.—In the national guard, not in the service of the United States, the commanding officer of any garrison, fort, post, camp, air base, auxiliary air base, or other place where troops are on duty, or of a regiment, wing, group, detached battalion, detached squadron, detached company, or other detachment, may convene a summary courts-martial consisting of one commissioned officer. A summary courts-martial may sentence to a fine of not more than twenty-five dollars for a single offense, to forfeiture of pay and allowances, and to reduction of a noncommissioned officer in grade or to the ranks.

Section 97. Procedure of courts-martial.—In the national guard not in the service of the United States, presidents of courts-martial and summary court officers shall have the power to issue warrants to arrest accused persons and to bring them before the court for trial whenever such persons shall have disobeyed an order in writing from the convening authority to appear before such court. a copy of the charge or charges having been delivered to the accused with such order, and to issue subpoenas and subpoenas duces tecum, and to enforce by attachment attendance of witnesses and the production of books and papers, and to sentence for a refusal to be sworn or to answer as provided in actions before civil courts. He shall also have power to punish for contempt occurring in the presence of the court not to exceed five days and a fine of not more than fifty dollars for a general courts-martial; not to exceed three days, and a fine of not more than fifty dollars for a special courts-martial; and not to exceed one day and a fine of not more than fifty dollars for a summary courts-martial. All sentences to confinement imposed by any military court of this state shall be executed in such county jail of the county in which the court is sitting.

Secttion 98. Manual of courts-martial governs trials.—Trials and proceedings by all courts and boards shall be in

accordance with the plan and procedures laid down in the manual of courts-martial adopted pursuant to the uniform code of military justice, and other procedures under military law as may from time to time be prescribe by executive order or regulations of the department of defense.

Section 99. Courts not bound by technical rules.—Military courts are not bound by technical rules of evidence prevailing in civil tribunals, and may depart therefrom when in their opinion the exigencies of the case, and the best interests of the service or the ends of justice demand it. Copies of all general and special orders may be received in evidence when attested to by the signature of any officer having custody of an official copy of such order; and in case a written copy of such order cannot be procured without delay or inconvenience, oral testimony as to its contents may be received and all military courts may take judicial notice of the signature and hand-writing of any commissioned officer of the national guard.

Section 100. Employment of a stenographer in courts-martial.—The employment of a stenographer reporter may be authorized by the convening authorities for any general or special courts-martial. When a reporter is employed, he shall be paid upon the certificate of the judge advocate and upon the approval of the governor from the regular military appropriations, such fees as are provided by law for an official reporter.

Section 101. Witnesses at courts-martial.—Courts-martial may subpoena any witness, residing in one hundred miles of the place where the court is sitting, to appear and testify before it, and the sheriff, on receiving any subpoena issued by direction of the courts-martial and signed by the judge advocate thereof, or by the officer holding a summary court, shall make service and return of service as provided by law in criminal cases. Any person failing to appear at any courts-martial in this state to testify in accordance with the subpoena issued by such courts-martial, without lawful excuse, is guilty of a misdemeanor and shall upon conviction be fined not more than one hundred dollars, or may be imprisoned not more than sixty days in the county jail, either or both.

Section 102. Disturbing court.—Any person who shall be guilty of disorderly, contemptuous, or insolent behavior, or use any insulting or contemptuous or indecorous language or expression to or before any military court, or member of any such court, in open court, intending to interrupt the proceedings or to impair the authority of such court, may be committed to jail of the county in which said court shall sit, by warrant under the hand of the president of such court. The

warrant shall be directed to any lawful officer of the State of Alabama, and shall briefly state the offense adjudged to have been committed and shall command the officer to whom it is directed to take the body of such person and commit him to the jail of the county, there to remain without bail in close confinement for a time to be limited, not exceeding five days and a fine of not more than fifty dollars for a general courts-martial; three days and a fine of not more than fifty dollars for a special courts-martial; and one day and a fine of not more than fifty dollars for a summary courts-martial. Such officer shall obey such warrant and keep the person committed thereby until the expiration of the time mentioned in the warrant, or until the offender shall be discharged by due course of law unless sooner discharged by a judge of a court of record in the same manner and under the same rules as in cases of imprisonment under process of contempt from a civil court of record.

Section 103. Payments of expenses of courts-martial.—All expenses incurred in courts-martial proceedings, including the payment of stenographer, sheriff's fees for service of complaints, warrants, summons, and subpoenas and witnesses, shall be allowed the same fees as in criminal cases, together with officers and judge advocate of the court, shall be paid out of the regular military appropriations by warrant on the comptroller, with the approval of the governor.

Section 104. Findings and sentence of courts-martial to be approved by governor.—(a) The findings and sentence of any courts-martial, under the provisions of this act, except sentences for contempt of court, shall be certified to the adjutant general within ten days after the hearing is concluded and the adjutant general, with the advice of the legal officer on the state staff of the service involved, shall submit said findings and sentence to the governor with recommendation that the findings be affirmed, revoked or modified, and the decision of the governor affirming, revoking or modifying the findings and sentence of the courts-martial shall be final and conclusive. (b) No finding or sentence of any courts-martial, under the provisions of this act, shall be executed until approved by the governor and whenever any sentence is so approved the adjutant general shall cause the proper orders to be issued to the sheriff of the proper county to carry the sentence of the court into proper effect. (c) The proceedings of courts-martial shall not be viatiated by reason of mere irregularity, want of form or other technical defect, unless it is affirmatively made to appear, upon review, that the accused has been denied a fair hearing and has been materially injured thereby. In all cases where the sentence of a courts-martial has been approved by the governor, the jurisdiction of said court and the legality of

its proceedings shall be presumed and on approval of such sentence, or in any civil proceeding, the burden of rebutting such presumption by competent evidence shall rest with the applicant or contestant in any such review or civil proceedings.

Section 105. How executed.—All processes and sentences of any of the military courts of this state shall be executed by any sheriff, deputy sheriff, constable, or police officer, or by any person deputized by said military court, into whose hands the same may be placed for service or execution, and such officer shall make return thereof to the officer issuing or imposing the same. Such service or execution of process or sentence shall be made by such officer without tender or advancement of fee therefor, but all costs in such cases shall be paid from funds appropriated for military purposes. The actual necessary expenses of conveying individuals from one county in the state to another, when the same is authorized and directed by the adjutant general of the state, shall be paid from the regular military appropriation of the state, when approved by the governor.

Section 106. Commitments.—Where any sentence of a fine or imprisonment shall be imposed by any military court of this state, it shall be the duty of the adjutant general, upon approval of the findings and sentences of such court, by the governor, to make out and sign a certificate entitling the case, giving the name of the accused, the date and place of trial, the date of approval of sentence, the amount of fine and term of imprisonment, if any, and deliver such certificate to the sheriff of the county wherein the sentence is to be executed; and it shall thereupon be the duty of such officer to carry said sentence into execution in the manner prescribed by law for the collection of fines and serving imprisonment in criminal cases determined in the courts of this state. All fines collected under the provisions of this act shall be paid to the State of Alabama.

Section 107. Compensation of civil officers.—Sheriffs and other civil officers executing the warrants of arrest or process of courts-martial pursuant to this act, shall receive as compensation therefor the fees allowed by law for like services in the criminal courts, the same to be taxed by such courts-martial. All such fees and expenses of trial in courts-martial cases, and the fees of sheriffs and jailers in all such cases for the keep of prisoners, shall be paid by the adjutant general out of appropriations available to him.

Section 108. Courts of inquiry.—Court of inquiry, to consist of one or more officers, may be, or on the request of the officer involved, shall be instituted by the adjutant general

for the purpose of investigating the conduct of any officer, or any accusation or imputation against him, or any acts made the subject of military complaint. Such court of inquiry shall, without delay, report a statement of facts, and, when required, the evidence adduced and an opinion thereon to the adjutant general, who may, in his discretion, thereupon order a courts-martial or efficiency board for the trial of the officer whose conduct has been inquired into.

Section 109. Operational support appropriation for headquarters and organizations.—The Legislature of Alabama shall appropriate during each of its regular sessions, or during such other sessions as conditions may require, a sufficient sum of money, based upon estimates and recommendations of The Adjutant General and approved by the Governor, for the purpose of defraying all expenses necessary and incident to the operations and support, the health, safety, welfare and morale of personnel assigned to headquarters and organizations of the Alabama National Guard, or for any other purpose that The adjutant General may approve: Provided; that there shall be annually allowed to commanders such sums as The Adjutant General may determine and the Governor may approve, such allowances to be paid quarterly, and based on administrative responsibility and the type and number of units occupying facility:

Provided; that in order to secure such quarterly allowances, the commanders shall be required to render an accounting of all receipts and disbursements quarterly or for such period as The Adjutant General may require, such accounting of funds to be in accordance with rules and regulations prescribed by The Adjutant General and approved by the Governor.

Section 110. Calling out troops.—The governor may call out all, or such portion of the militia and volunteer forces of the state as may be deemed advisable, to execute the laws, suppress insurrection, and repel invasion, or to provide assistance in cases of disaster.

Section 111. Authority.—No portion of the national guard of Alabama shall be called into service, or be used in the enforcement of the laws of the state without the authority of the governor, except in cases hereafter provided in this act.

Section 112. Call for riot duty.—Whenever any circuit judge, city court judge, sheriff, or mayor of any incorporated city, town or village, shall have reasonable cause to apprehend the outbreak of any riot, route, tumult, mob or combination to oppose the enforcement of the laws by force or violence, within the jurisdiction in which such officer is by law a conservator of the peace, which cannot be speedily suppressed or

effectually prevented by the ordinary posse comitatus and peace officers, it shall forthwith become the duty of such judge, sheriff, city court judge, or mayor, to report the facts and circumstances in writing, or verbally to the governor, or his authorized representative, and request him to order out such portion of the national guard of the state as may be necessary to enforce the laws and preserve the peace; and it shall therefore be the duty of the governor, if he deems such apprehension well founded, to order out, or direct to be held in readiness, such portion of the national guard as he may deem advisable for the proper enforcement of the law; and he shall instruct the officer in command of such troops as to the duties required of him.

Section 113. Ordering out troops.—(a) Whenever there is an insurrection or outbreak of a formidable character, which has overawed, or threatens to overawe, the ordinary civil authorities, or in cases of disaster, and the authorities in such county, city or town, have attempted and failed to quell the same by use of posse comitatus, or it is apparent that such attempt would be useless, the governor on a certificate of such facts from any four conservators of the peace in such county, city or town, or from any circuit judge, probate judge, sheriff, or justice of the supreme court, shall immediately order out such portion of the national guard or militia as he may deem necessary to enforce the laws, and preserve the peace; and the governor may, when the urgency is great, order out such troops without any certificate from either of the officers mentioned in this act, but in no case shall the governor keep in service in any county, city or town of the state for more than ten days, any troops or militia other than that raised in such county, except in time of invasion or actual insurrection, unless some justice of the supreme court or circuit judge, or the sheriff thereof, shall certify to him that the longer presence of such militia or troops is requisite to the proper enforcement of the law, or the preservation of the peace therein. (b) In case there is a failure of the means to communicate with the governor or his authorized representative due to riot, insurrection, civil disturbance, or disaster, the mayor of a city or town, the sheriff, probate judge or a circuit judge of the county involved may direct the highest commander or officer of the national guard within the county to call to duty such units of the national guard in the county necessary to suppress such riot, insurrection, civil disturbance or render assistance in case of disaster. Said civil authorities shall not call units of the national guard to duty under this section unless local authorities are unable to restore order and unless said authorities have attempted to communicate with the governor or his

authorized representative, but lack the means to do so due to the circumstances herein set forth.

Section 114. Order in writing, and use of discretion.—Any officer whose command is called out under the provisions of this act, and reporting to any civil authority may require such civil authority to make such instructions in writing, and prescribe therein the outline of the duties required of him and his command, and may decline to obey such instructions until put in writing, and while such commanding officer must obey all lawful instructions of such civil authorities such military officer may use his discretion as to the manner of carrying out such lawful instructions as long as he complies with their spirit.

Section 115. To report to governor.—Whenever any national guard troops are ordered out by a civil authority under the provisions of this act, without first obtaining an order from the governor, it shall be the duty of the civil authority and also of the commander of such national guard troops to report the facts as soon as practicable to the governor or his authorized military representative; and in all cases the governor or his authorized military representative may direct such national guard troops to perform their duties under his immediate orders.

Section 116. Order to disperse before using force.—Before using military force in the dispersion of any riot, rout, tumult, mob or other lawless or unlawful assembly, or combination mentioned in this act, it shall be the duty of the civil officer calling out such military force, or some other conservator of the peace, or if none be present, then of the officer in command of the troops, or some person by him deputed to command the persons composing such riotous, tumultous, or unlawful assemblage or mob, to disperse and retire peacefully to their respective abodes and businesses; but, in no case, shall it be necessary to use any set or particular form or words in ordering the dispersion of any riotous, tumultous or unlawful assembly; nor shall any such command be necessary where the officer or person, in order to give it, would necessarily be put in imminent danger of loss of life, or great bodily harm, or where such unlawful assembly or riot is engaged in the commission or perpetration of any felony, or in assaulting or attacking any civil officer, or person lawfully called to aid in the preservation of the peace, or is otherwise engaged in the actual violence to any person or property.

Section 117. Felony for failure.—Any person or persons, composing or taking part in any riot, rout, tumult, mob or lawless combination of assembly, mentioned in this act, who

after being duly commanded to disperse as hereinbefore provided in this act, wilfully and intentionally fail to do so, is guilty of a felony, and must on conviction be imprisoned in the penitentiary for not less than one, nor more than two years.

Section 118. To disperse mob.—After any person or persons composing or taking part, or about to take part, in any riot, mob, rout, assault, or unlawful combination or assembly, mentioned in this act, shall have been duly commanded to disperse or where the circumstances are such that no such command is required under these provisions of this act, the commander in charge of such military forces, within the limits provided in his instructions, shall take such steps and make such disposition for the arrest, dispersion or quelling of the persons composing or taking part in such mob, riot, tumult, outbreak, or unlawful combination or assembly mentioned in this act, as may be deemed requisite to that end, and if in doing so, any person is killed, wounded, or otherwise injured, or any property injured or destroyed, by any officer or member of the national guard, or other person lawfully aiding them, such members of the national guard, or other person lawfully aiding them, shall be held guiltless in all cases unless such killing, wounding, or injury to person, or injury or destruction of property, was wanton or malicious and without any seeming necessity or excuse.

Section 119. Assault on troops.—Any person who unlawfully assaults or fires at, or throws any missile at, against, or upon any member or body of the national guard, or civil officer, or other person lawfully aiding them, when assembling or assembled for the purpose of performing any duty under the provisions of this act, must, on conviction, be imprisoned in the penitentiary for not less than one year, nor more than five years.

Section 120. Need not await orders.—If any portion of the national guard, or person lawfully aiding them in the performance of any duty under the provisions of this act, are assaulted, attacked, or are in imminent danger thereof, the commanding officer of such national guard need not await any orders from any civil magistrate, but may at once proceed to quell such attack, and take all other needful steps for the safety of his command, or persons lawfully aiding them in the performance of any duty.

Section 121. To disperse or order.—Whenever any shot is fired, or missile thrown, at or upon any body of the national guard, in the performance of any duty under the provisions of this act, it shall forthwith be the duty of every person in the assemblage from which the shot is fired, or missile thrown, immediately to disperse or retire therefrom, without awaiting

any orders to do so; and any person knowing or having reason to believe that a shot has been fired, or missile thrown, from any assemblage of which such person forms a part, or where he is present, and failing, without lawful excuse to retire immediately from such assemblage, is guilty of a misdemeanor, and any person so remaining in such assemblage after being duly commanded to disperse, is guilty of a felon, and must on conviction be imprisoned in the penitentiary for not less than one year, nor more than two years.

Section 122. To close up streets, etc.—Whenever any rout, riot, or mob, has occurred or is progressive, or is so imminent that any portion of the national guard is, or has been, called out for the performance of any duty under the provisions of this act, it shall be lawful for the commanding officer of the national guard, if it be deemed advisable in subduing or preventing such mob or riot, or outbreak thereof, to prohibit all persons from occupying or passing on any street, road, or place, where the same is threatened, or where the national guard may be for the time being, and otherwise to regulate passage and occupancy of such streets and places, any person, after being duly informed of such prohibition or regulation, who wilfully and intentionally, without lawful excuse, attempts to go or remain on such street, road, or place, and fails to depart after being warned to do so, is guilty of a misdemeanor, and in such case the officer in command of the national guard may forthwith arrest persons so offending and turn them over to some civil magistrate.

Section 123. To prescribe limits for public.—The commander of any body of national guard troops guarding any jail, public building, or other place, or escorting any prisoner may, if he deems it advisable, prescribe a reasonable distance in the vicinity of such jail, public building, or other place, or escort of such prisoner within which persons shall not come; and any any person knowingly and wilfully, without lawful excuse coming within such limits without the permission of such officer, and refusing to retire after being ordered to do so, shall be deemed guilty of a misdemeanor, and any person so coming and remaining in such limits in the night time is guilty of a felony, and must on conviction be imprisoned in the penitentiary for not less than one nor more than two years; and in either case, it shall be the duty of the officer commanding such national guard troops forthwith to arrest persons thus offending, and turn them over to some civil migistrate.

Section 124. Change of venue.—Any civil or military officer or member of the national guard or any person lawfully aiding them in the performance of any duty required under the provisions of this act, indicted or sued for any injury to person

or property in endeavoring to perform such duty, shall have the right, and upon motion of such person, it is hereby made the duty of the court in which such indictment or suit is pending or sued, to remove the trial of the indictment or suit to some county free from exception other than that in which the indictment was found or injury done.

Section 125. Commanding officer may order certain places closed.—When any part of the national guard of Alabama is in active service by order of the governor or other civil authority to aid in the enforcement of the laws, in cases of insurrection, invasion, riot, or imminent threat thereof, or disaster, the commanding officers of such troops may order the closing of any places where intoxicating liquors, arms, ammunition, dynamite, or other explosives are sold, and forbid the selling, bartering, lending or giving away of any of said commodities in the city, town, or village where the troops are on duty, or in the vicinity of such place, or for so long as any of the troops remain on duty in said vicinity. Such orders shall take effect whether any civil officer has issued a similar order or not; and the commanding officer of such troops may continue said prohibition in force until the departure of the troops, although the sheriff, mayor or intendant of the county, city, or town, or villages may have prescribed an earlier or different date after which such selling, bartering, lending, or giving away shall be carried on.

Section 126. Unauthorized military organization.—Any two or more persons, whether with or without uniform, who associate, assemble, or congregate together by or under any name in a military capacity for the purpose of drilling, parading or marching at any time or place or otherwise take up or bear arms in any such capacity, without authority of the governor, must on conviction be fined not more than one thousand dollars. This section does not apply to any school or college where military training and instruction is given under the provision of state or federal laws, nor to the order of Knights of Templar, Knights of Pythias, Patriachs Militant, or Uniform Rank Woodmen of the World.

Section 127. Powers of commanding officers in active service.—The commanding officer of troops in the active service of the state shall have the power to incarcerate and detain until such person can be turned over to the civil authorities, any person guilty of drunkeness, breach of peace or disorderly conduct, which interferes with the performance of said troops. Such commanding officer shall have the authority to abate any menace to the health or safety of his command.

Section 128. Attendance of officers and men may be enforced.—Whenever any part of the national guard or naval

militia of Alabama is called into the active military service of the state for any purpose whatever, the commanding officer may force the attendance of officers, warrant officers, and enlisted men, and any officer, or warrant officer, failing to report when ordered, or any enlisted man failing to report without satisfactory excuse, shall be judged by a courts-martial and arrested and delivered by the sheriff or any other duly authorized civil officer to the commanding officer at the expense of the state

Section 129. Dropping allowance.—A dropping allowance may be established by the adjutant general as an item of the budget of the state military department and included in the regular appropriations made by the legislature from time to time for the organization and maintenance of the national guard of Alabama, based on not more than four dollars per enlisted man per year. Expenditures therefrom will be for federal property shortages of national guard organizations that cannot be covered by reports of survey, due to certain technical requirements, of the federal government. The annual estimate of this allowance shall be based on the actual enlisted strength of the national guard and naval militia on the last day of September of each year. The funds expended as a dropping allowance shall be audited and accounted for in the same manner as other state funds which have been appropriated for military purposes; provided, that the dropping allowance shall not exceed ten thousand dollars per annum; and provided further, that the provisions of this section shall be retroactive so that all property shortages existing to date, in addition to those that may occur after the date of approval of this act, may be satisfied by the use of appropriations made in the future for the purpose of carrying out the intended of this section.

Section 130. City, county and other local governing bodies may appropriate organization and maintenance funds for military purposes.—The county commissioners, board of revenue, or other governing body in each county, and the city council and ciyt commissioners or other governing body of a municipality, are hereby authorized and empowered, at their discretion, to appropriate such sums of money as they may deem wise and advisable, not otherwise appropriated, to pay the necessary organization and maintenance expenses, and appropriate monies for the purpose of furnishing by rental or purchase, armories, office furniture and equipments, and lockers, training areas, target ranges, sheds for military vehicles, hangars for airplanes, motor vehicles, and military equipment of every character, including flying fields and similar utilities, for military purposes of each unit of the national guard and naval

militia located in their respective counties and municipalities, to be accounted for to the governor by the organization receiving such appropriation as herein provided in this act for other military funds.

Section 131. City, county and other local governing bodies may sell, rent, lease real estate and buildings to organizations for military purposes.—The county commissioners, board of revenue, or other governing body in each county, and the city council and city commissioners or other governing body of a municipality, are hereby authorized and empowered to sell, rent, lease, or give any real estate and buildings belonging to said county or municipality to any unit of the national guard located in their respective counties and municipalities, for the purpose of erecting or furnishing armories, offices, storerooms, training areas, target ranges, sheds for military vehicles, hangars for airplanes, motor vehicles, and military equipments of every character, including flying fields and similar utilities for military purposes of each unit. All sales, leases, transfers, and gifts, under this section, shall be in accordance with such rules and regulations as the armory commission may approve.

Section 132. Revolving fund.—In order to facilitate the execution of the purposes of this act, and the necessary movements of troops and property, the adjutant general shall have the authority to use a cash fund not to exceed two thousand dollars to be advanced to an officer of the state military department designated by the adjutant general to be maintained and used as a revolving fund out of which expenses authorized by this act may be paid, said revolving fund to be advanced, upon the approval of this act, out of the regular military appropriation provided in section 133 of this act, and to be reimbursed from time to time out of the fund against which the expenditure is properly chargeable, upon presentation to the comptroller of accounts, receipts and vouchers with orders attached, approved by the governor, showing the legal expenditure of the amount sought to be reimbursed.

Section 133. Regular military appropriations.—The legislature of Alabama shall appropriate during each of its regular sessions, or during such other sessions as conditions may require, a sufficient sum of money, based upon estimates and recommendations of the adjutant general and approved by the governor, for the purpose of defraying the expenses of the military department in carrying out the provisions of this act, and such other expenses connected with the organization, maintenance, support, upkeep, administration, armament, training, and discipline of the national guard of Alabama and other expenses of a general or special nature as may be to the interest and benefit of the national guard as the governor may approve.

Any appropriations made by law for payment of salaries or other expenses of any agency of the state which shall be merged or consolidated with, or made a part or subdivision of the military department, shall be merged with and become a part of the appropriations for "other salaries" and "other expenses" of the military department. The governor shall prescribe necessary rules and regulations governing the manner and method of disbursing moneys authorized by this section to be appropriated, and all expenses authorized to be contracted shall be certified to and verified by affidavit, with itemized vouchers and orders attached. Any portion of any item of any regular appropriation for the support of the military department and national guard which is unexpended and unobligated after the expiration of the eleventh month of any fiscal year shall be available for use in taking care of any expenses of operating the military department and the armory commission of Alabama for which the regular appropriation shall be insufficient for that fiscal year.

Section 134. Special appropriations for national guard in active military service of state.—In addition to the monies to be appropriated for the purpose stated in the preceding section, there shall be appropriated by the legislature at each of its regular sessions, or such other sessions as conditions may require, out of the monies not otherwise appropriated, such sum as may be necessary for pay, allowances, subsistence, shelter, travel and other necessary expenses of the national guard called into active military service of the state for the purpose of enforcing the law, preservation of peace, for the security of lives of citizens, for aid and relief of our citizens in case of disaster, for the protection of property and for such other purposes as the governor may, for specific reasons designate as in the active military or naval service of the state. The disbursement of all funds appropriated for the purpose of carrying out the provisions of this act shall be with the approval of the governor, under such rules and regulations as the adjutant general may prescribe.

Section 135. Repealer Clause.—All laws or parts of laws in conflict with this act are hereby repealed. More specifically, Sections 1 through 185 and Sections 203 through 349 of Title 35, Code of Alabama 1940 as last amended are hereby repealed, however acts and provisions of acts dealing with the Armory Commission of Alabama and relating to compensating for the death of Alabama National Guardsmen are not repealed and shall remain in full force and effect.

Section 136. Severability Clause.—The provisions of this act are severable. If any portion of this act is declared invalid

or unconstitutional such declaration shall not affect the part which remains.

Section 137. Effective date.—This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 10, 1973.

Time: 5:00 P.M.

Act No. 1039 H. 1136—McCorquodale, Lyons

AN ACT

"To authorize the State Industrial Development Authority to sell and issue from time to time its bonds not exceeding $2,000,000 in principal amount in addition to those heretofore authorized to be issued by it; to prescribe certain additional powers and duties of the Authority, including the power to make grants from the proceeds of the said additional bonds to counties, municipalities, and local industrial development boards, subject to certain limitations for the purposes of making certain local surveys incidental to industrial development and to grade and drain industrial sites and the means of access thereto; to provide that the Authority may issue and sell such bonds for the purpose of making the said grants; to provide that such bonds and the income therefrom shall be exempt from taxation, that such bonds may be used to secure deposits of funds of the state and its political subdivisions, instrumentalities and agencies, shall be legal for investment of fiduciary funds and funds of the Teachers' Retirement System of Alabama, the Employees' Retirement System of Alabama, and the State Insurance Fund, and shall not create an obligation or debt of the state; to provide that all bonds issued by the Authority may thereafter be refunded by the issuance of refunding bonds; to provide for the deposit, investment and disposition of the proceeds of the sale of the bonds of the Authority; to make an appropriation and pledge of funds from the special tax levied by Act No. 654 adopted at the 1965 Regular Session of the Legislature of Alabama, as amended, to the extent necessary to pay the principal of and interest on bonds of the Authority; to authorize the Authority to pledge the funds so appropriated for the payment of the principal of and interest on its bonds; to provide that such principal and interest shall be payable solely from the funds so appropriated; and to provide that the State Treasurer shall be the custodian of the funds of the Authority."

Be It Enacted by the Legislature of Alabama:

Section 1. Definitions. The following words and phrases used in this Act, and others evidently intended as the equivalent thereof, shall, in the absence of clear implication herein otherwise, be given the following respective interpretations herein:

"Authority" means the public corporation organized pursuant to the provisions of Act No. 662 adopted at the 1965 Regular Session of the Legislature of Alabama, as amended.

"Board of Directors" means the board of directors of the Authority.

"Bonds" means the bonds issued under the provisions of this Act.

"Grantee" means a county, municipality or local industrial development board organized as a public corporation in this state, to which a grant of money is made as provided in Section 3 hereof.

"Industrial Sites" means land owned by a grantee or potential grantee on which industrial facilities have been or will be constructed for sale or lease to an individual, private association or private corporation.

"Nominal transferee" means any person to whom a grantee transfers one or more industrial sites or any part of any thereof for less than fair market value and any person who derives title to such industrial sites or any part of any thereof through such a transferee.

"Person," unless limited to a natural person by the context in which it is used, includes a private firm, a private association, a public or private corporation, a municipality, a county, or an agency, department or instrumentality of the state or of a county or municipality.

"Preparation of industrial sites" means the grading of industrial sites and the means of access thereto, and the draining thereof to prevent the accumulation of excess natural waters thereon.

"State" means the State of Alabama.

"Herein," hereby," hereunder," "hereof," and other equivalent words refer to this Act as an entirety and not solely to the particular section or portion thereof in which any such words is used.

The definitions set forth above shall be deemed applicable whether the words defined are used in the singular or plural. Whenever used herein any pronoun or pronouns shall be deemed to include both singular and plural and to cover all genders.

Section 2. Authorization to Issue Additional Bonds. In addition to all powers heretofore conferred on it by Acts heretofore enacted by the Legislature of Alabama, and in addition to all other powers conferred on it in this Act, the Authority is hereby authorized from time to time to sell and issue its bonds, not exceeding Two Million Dollars ($2,000,000) in aggregate principal amount, for the purpose of making the grants of money authorized in Section 3 hereof, and to anticipate by the issuance

of its bonds the receipt of the revenues herein appropriated and pledged.

Section 3. Authorization to Make Grants of Money. The Authority is hereby authorized to make grants of money derived from the sale of the bonds to counties, municipalities and local industrial development boards organized as public corporations in the state for use by the grantees for any one or more of the following purposes: (1) the making of surveys to determine the location of suitable industrial sites in the locality of the grantee; (2) the making of surveys to determine the availability of labor in the locality of the grantee and to classify such labor in terms of skills and educational level; (3) the preparation of industrial sites; or (4) any combination of any of the foregoing which the grantees consider appropriate and necessary for the promotion of industrial development in their respective localities.

Every grant of money made by the Authority, any part of which is made from the proceeds of the bonds, shall be made subject to the following terms and conditions, which are hereby declared to be legally enforceable, and may be enforced by the Authority, in any court of competent jurisdiction:

(a) No such grant shall be in an amount greater than the total of the following stated percentums of the costs that it is anticipated will be expended for the construction and equipment of the facilities that will occupy the industrial site with respect to which the grant is made, as such anticipated costs shall be certified to the Authority by a registered architect or a registered engineer or by the chief executive officer of the body to which the grant is made: Six percentum (6%) of the anticipated cost for the construction and equipment of facilities that will occupy said site when such costs are $100,000 or less; five percentum (5%) of the anticipated cost when such anticipated costs exceeds $100,000 but does not exceed $200,000, but in no event shall the grant be less than $6,000; Four percentum (4%) of the anticipated cost when such anticipated costs exceeds $200,000 but does not exceed $400,000, but in no event shall the grant be less than $10,000; Three percentum (3%) of the anticipated cost when such anticipated costs exceeds $400,000 but does not exceed $800,000, but in no event shall the grant be less than $16,000; Two percentum (2%) of the anticipated cost when such anticipated costs exceeds $800,000 but does not exceed $1,600,000 but in no event shall the grant be less than $24,000; One percentum (1%) of the anticipated cost when such anticipated costs exceeds $1,600,000 but does not exceed $10,000,000, but in no event shall the grant be less than $32,000; Three quarters of one percentum (¾%) of the anticipated cost when such anticipated costs exceeds $10,000,000 but does not exceed $20,000,000, but in no event shall the grant

be less than $100,000; provided, however, that the total of any grant so made shall not exceed $150,000.

(b) No such grant or grants shall be made for any part of the anticipated costs of the preparation of an industrial site, and if made shall not be used, in any case where any individual, private association or private corporation has received or is to receive an option to purchase the industrial site with respect to which the grant is made (as distinguished from improvements to be constructed on such site which are not to become a part of the site on which such improvements are to be constructed), or any part of any thereof, from the grantee or any nominal transferee of the grantee for less than the fair market value of such industrial site;

(c) The Authority shall have power to audit the disbursements by the grantee from such grant or grants; and

(d) The Authority may specify any appropriate terms and conditions to facilitate the enforcement of the foregoing provisions of this paragraph.

Section 4. Details Respecting the Bonds. The bonds of the Authority shall be signed by its president and attested by its secretary and the seal of the Authority shall be affixed thereto, and any interest coupons applicable to such bonds shall be signed by the president; provided, that a facsimile of the signature of one, but not both, of the said officers may be printed or otherwise reproduced on any such bonds in lieu of being manually subscribed thereon, a facsimile of the seal of the Authority may be printed or otherwise reproduced on any such bonds in lieu of being manually affixed thereto, and a facsimile of the president's signature may be printed or otherwise reproduced on any such interest coupons in lieu of being manually subscribed thereon. Any bonds of the Authority may be executed and delivered by it at any time and from time to time, and shall be in such form or forms and such denomination or denominations and of such tenor and maturities, shall bear such rate or rates of interest, shall be payable at such times and evidenced in such manner, and may contain such other provisions not inconsistent herewith, all as may be provided by the resolution of the board of directors of the Authority under which such bonds are authorized to be issued; provided, that no bond of the Authority shall have a specified maturity date later than twenty years after its date. Any bond of the Authority may be made subject to redemption at the option of the Authority at such times and after such notice and on such conditions and at such redemption price or prices as may be provided in the resolution under which it is authorized to be issued; provided, that those bonds of the Authority having specified maturity dates more than ten years

after their date shall be made subject to redemption at the option of the Authority not later than the end of the tenth year after their date, and on any interest payment date thereafter, under such terms and conditions and at such redemption price or prices as may be provided in the resolution under which such bonds are authorized to be issued. Bonds of the Authority may be sold from time to time as the board of directors of the Authority may consider advantageous, but bonds of the Authority must be sold only at public sale, either on sealed bids or at public auction, to the bidder whose bid reflects the lowest net interest cost to the Authority for the bonds being sold, computed from their date to their respective maturities; provided, that if no bid accepable to the Authority is received, it may reject all bids. Notice of each such sale shall be given by publication in either a financial newspaper published in the City of New York, New York, and also by publication in a daily newspaper customarily published in the State of Alabama not less than five days during each calendar week, each of which notices must be published at least one time not less than ten days before the date fixed for the sale. The board of directors of the Authority may fix the terms and conditions under which such sale may be held; provided, that none of the bonds may be sold for a price less than the face value thereof; and provided, further, that such terms and conditions shall not conflict with any of the requirements of this Act. Subject to the provisions and limitations contained in this Act, the Authority may from time to time sell and issue refunding bonds for the purpose of refunding any matured or unmatured bonds of the Authority then outstanding. Such refunding bonds shall be subrogated and entitled to all priorities, rights and pledges to which the bonds refunded thereby were entitled. The Authority may pay out of the proceeds of the sale of its bonds attorneys' fees and the expenses of issuance which the said board of directors may deem necessary and advantageous in connection with the issuance of such bonds. No fiscal agents' fees shall be paid in connection with the issuance or sale of any bonds. Bonds issued by the Authority shall not be general obligations of the Authority but shall be payable solely out of the funds appropriated and pledged therefor in Section 6 hereof. As security for the payment of the principal of and interest on the bonds issued by it, the Authority is hereby authorized and empowered to pledge for payment of such principal and interest the funds that are appropriated and pledged in Section 6 hereof for payment of such principal and interest. All such pledges made by the Authority shall take precedence in the order of the adoption of the resolutions containing such pledges; provided, that each pledge for the benefit of refunding bonds shall have the same priority as the pledge for the benefit of the bonds refunded thereby. All contracts

made and all bonds issued by the Authority pursuant to the provisions of this Act shall be solely and exclusively obligations of the Authority and shall not constitute or create an obligation or debt of the State of Alabama. All bonds issued by the Authority and the income therefrom should be exempt from all taxation in the state. Any bonds issued by the Authority may be used by the holder thereof as security for any funds belonging to the state, or to any political subdivision, instrumentality or agency of the state, in any instance where security for such deposits may be required by law. Unless otherwise directed by the court having jurisdiction thereof, or the document that is the source of authority, a trustee, executor, administrator, guardian, or one acting in any other fiduciary capacity may, in addition to any other investment powers conferred by law and with the exercise of reasonable business prudence, invest trust funds in bonds of the Authority. Neither a public hearing nor consent of the State Department of Finance or any other department or agency shall be a prerequisite to the issuance of bonds by the Authority. The bonds issued under the provisions of this Act shall be legal investments for funds of the "Teachers Retirement System of Alabama," the "Employees' Retirement System of Alabama," and the State Insurance Fund.

Section 5. Deposit and Investment of and Disbursement from Bond Proceeds. The proceeds of all bonds, other than refunding bonds, issued by the Authority remaining after paying expenses of their issuance shall be deposited in the State Treasury, and shall be carried in the State Treasury in a special or separate account. Such funds shall be subject to be drawn upon by the Authority, but any funds so withdrawn shall be used solely for the purposes for which the bonds were issued as authorized in this Act.

The State Treasurer, with the approval of the president of the Authority, shall invest funds not needed within the ensuing thirty days for any purpose for which they are held, which investments shall be made in the manner authorized and provided for in Act No. 66 adopted at the 1945 Regular Session of the Legislature of Alabama.

The proceeds from the sale of any refunding bonds issued hereunder remaining after paying the expenses of their issuance shall be used only for the purpose of refunding the principal of outstanding bonds of the Authority and of paying any premium that may be necessary to be paid in order to redeem or retire the bonds to be refunded.

Section 6. Revenues of the Authority. For the purpose of providing funds to enable the Authority to pay at their respective

maturities the principal of and interest on any bonds issued by it under the provisions of this Act and to accomplish the objects of this Act, there is hereby irrevocably pledged to such purpose and there is hereby appropriated so much as may be necessary for such purpose of the residue of the receipts from the tax levied by Act No. 654 adopted at the 1965 Regular Session of the Legislature of Alabama, after there shall have been taken therefrom the amount necessary for the purposes specified in subsection (a) of Section 3 of the said Act No. 654, as last amended by an Act adopted at the 1973 Regular Session of the Legislature of Alabama. All moneys hereby appropriated and pledged shall constitute a sinking fund for the purpose of paying the principal of and the interest on the bonds herein authorized.

Section 7. Disbursements of Funds. Out of the revenues appropriated and pledged in Section 6 hereof, the State Treasurer is hereby authorized and directed to pay the principal of and interest on the bonds issued by the Authority under the provisions of this Act, as the said principal and interest shall respectively mature, and the State Treasurer is further authorized and directed to set up and maintain appropriate records pertaining thereto.

Section 8. Severability Clause. In the event any section, sentence, clause or provision of this Act shall be declared invalid by any court of competent jurisdiction, such action shall not affect the validity of the remaining sections, sentences, clauses, or provisions of this Act, which shall continue effective.

Section 9. Effective Date. This Act shall become effective upon its approval by the Governor or upon its otherwise becoming law.

Approved September 10, 1973.

Time: 5:00 P.M.

Act No. 1040 H. 1909—Lutz, Grainger, King, Hearn, Hale

AN ACT

Pertaining to Madison County, to consolidate the offices of Register in Chancery of the 23rd Judicial Circuit, the office of County Court Clerk or its successor and the Clerk of the Circuit Court, 23rd Judicial Circuit; to provide that the Clerk of the said Circuit Court henceforth perform duties and functions of the said Register and County Court Clerk; to provide the compensation of the Circuit Clerk and to otherwise provide for the office of Clerk of the Circuit Court, 23rd Judicial Circuit of Alabama; to create the office of Court Administrator; to provide the compensation and duties of said office and to otherwise provide for said office.

Be It Enacted by the Legislature of Alabama:

Section 1. The office of Register in Chancery of the 23rd Judicial Circuit of Alabama is hereby abolished and all duties and functions of said office, as heretofore provided by law, or as may hereafter be provided by general law for Registers in Chancery, are transferred to the Circuit Court Clerk of said circuit; it being the intent of this Act to grant and convey to said Clerk all the powers, authority, immunities, privileges and duties heretofore held and exercised by the said Register in addition to said Clerk's regular duties and functions provided by law. In assuming such authority and duties said Circuit Court Clerk shall collect and lawfully disperse all fees heretofore or hereafter provided by law to be collected and distributed by Registers of Circuit Courts. All files, papers, documents and equipment of the said register shall be delivered to the custody of said Clerk. All outstanding accounts receivable by the Register in Chancery aforesaid are hereafter to be collected and dispersed by the said Clerk as heretofore provided by law for the Register and as if collected and dispersed by said Register.

Section 2. The aforesaid Circuit Court Clerk shall appoint the person now serving as Register of the 23rd Judicial Circuit as a Deputy Circuit Court Clerk. Said person shall serve as Deputy Circuit Court Clerk and shall be compensated from the General Funds of Madison County under the provisions of the Madison County Personnel Act, provided that the compensation of said person shall be no less than the annual compensation being received at the date of passage of this Act, and provided further that the person so appointed shall have the same rights of tenure, if any, which he or she has upon the effective date of this Act, and the same right to become a supernumerary register that he or she would have had if the office of register had continued to exist and he or she had continue to hold such office until he or she makes application to become a supernumerary register. Upon the death, resignation or removal from office of such deputy clerk, said office shall be eliminated and abolished. The Circuit Clerk shall also appoint the administrative or clerical personnel serving in the office of the Register of the Twenty-third Judicial Circuit on the effective date of this Act to serve in like capacities in the office of the Circuit Court Clerk, and such personnel shall be compensated and subject to the provisions of the Madison County Personnel Act.

Section 3. The office of Clerk of the Madison County Court and Clerk of any court successor to the jurisdiction of the Madison County Court is hereby abolished. The Clerk of the Circuit Court, 23rd Judicial Circuit shall be ex-officio Clerk

of the Madison County Court or of any court succeeding to the jurisdiction of the Madison County Court. As such ex-officio Clerk, the said Clerk shall have the same powers and discharge the same duties as devolve upon the Clerk of the Madison County Court. These duties and powers shall be exercised and discharged in addition to those duties and powers heretofore or hereafter provided for Circuit Court Clerks. As such ex-officio Clerk of the County Court or the successor to its jurisdiction, the said Clerk shall collect and lawfully disperse all fees heretofore or hereafter provided by law to be collected and dispersed by County Court Clerks or by the Clerk of the Madison County Court or any court successor to its jurisdiction. All files, papers, documents and equipment of the Clerk of the Madison County Court shall be delivered to the custody of the Clerk of the Circuit Court of said circuit. All outstanding accounts receivable by the Clerk of the Madison County Court or by the Clerk of any court successor to its jurisdiction are hereafter to be collected and dispersed by said Circuit Clerk as heretofore provided by law for the Clerk of the County Court as if collected and dispersed by the Clerk of the Madison County Court.

Section 4. The Clerk of the 23rd Judicial Circuit shall appoint the person now serving as Clerk of the Madison County Court as a Deputy Circuit Court Clerk. Said person shall serve as a Deputy Circuit Court Clerk under the provisions of the Madison County Personnel Act, provided that the compensation of said person shall be no less than the annual compensation being received at the date of passage of this Act. Upon the death, resignation or removal from office of such deputy clerk, said office shall be eliminated and abolished. The Circuit Court Clerk shall also appoint administrative or clerical personnel serving in the Madison County Court or any successor court on the effective date of this Act in like capacities. Such personnel shall be compensated under the provisions of The Madison County Personnel Act.

Section 5. On July 1, 1974, the Clerk of the 23rd Judicial Circuit shall, subject to the approval of the presiding judge of the Twenty-third Judicial Circuit, appoint a Court Administrator who shall be a Deputy Circuit Court Clerk and who shall be subject to the provisions of the Madison County Personnel System. In addition to the other duties which may be imposed upon him by the Circuit Court Clerk, said Court Administrator shall have the following duties:

(1) He shall work with the circuit court clerk and with the judges of the Twenty-third Judicial Circuit and the Madison County Court, or any successor court, to compile, obtain

and digest information concerning the administration of justice in the Twenty-third Judicial Circuit.

(2) He shall serve as the agency to apply for and receive any grants or other assistance and to coordinate and conduct studies and projects in connection with the improvement of the administration of justice in the Twenty-third Judicial Circuit.

(3) He shall carry on or assist in programs designed to aid in the continuing legal and judicial education of judges, clerks, and other court personnel.

(4) He shall prepare and administer the court's budget, fiscal, accounting, and procurement.

(5) He shall administer the space available to the court, maintain it, and assist in planning new space at renovation.

(6) He shall assist the judges in the Twenty-third Judicial Circuit and in Madison County in gathering information needed in the management of any pre-trial release program in operation in Madison County.

(7) He shall establish procedures for the management of the jury system.

(8) He shall prepare and submit to the court at least annually, a report of the activities and the state of business of the court. This document shall be published by the court and shall include a description of innovations and modifications introduced to improve the court.

(9) He shall supervise and administer a system for the appointment of counsel for indigent criminal defendants.

(10) He shall perform such other duties as may be established by court rules.

Section 6. All fees, commissions and other compensation of every nature heretofore paid to or collected by the Circuit Court Clerk, Register in Chancery or Clerk of the Madison County Court in Madison County except the compensation herein provided for or fixed by the Madison County Personnel Board shall be paid into the county treasury.

Section 7. The three Deputy Circuit Court Clerks herein provided for shall work under the supervision of the Circuit Court Clerk.

Section 8. The purposes of this Act are to effect efficiency and economy in the operation of the courts of Madison County, but it is the will of the Legislature that this Act be implemented in a spirit of understanding and compassion for the

capable and loyal personnel now serving in the offices of Circuit Court Clerk, Register in Chancery and the Madison County Court or any successor court and that this Act shall not require any reduction in force in the personnel performing the functions now performed by those offices except through the normal process of attrition. It is, however, the further intention of the Legislature that this Act be utilized to reduce duplication of effort whenever possible.

Section 9. The Clerk of the 23rd Judicial Circuit of Alabama shall receive an annual salary of $17,700 per annum for the fiscal year beginning October 1, 1973, $18,900 per annum for the fiscal year beginning October 1, 1974 and $20,000 per annum for the fiscal year beginning October 1, 1975 and each year thereafter, which salary shall be paid in equal monthly installments from the General Fund of Madison County.

Section 10. The provisions of this Act are severable and the declaration of any part as unconstitutional or invalid shall not affect the part which remains.

Section 11. This Act shall become effective on the first day of November following its passage and approval by the Governor, or its otherwise becoming law; provided, that any provision hereof which contravenes the Constitution of Alabama of 1901, as amended, shall become effective upon the ratification and adoption of an amendment to said Constitution authorizing such provision.

Approved September 10, 1973.

Time: 5:00 P.M.

Act No. 1041 H. 200—Owens, Lyons

AN ACT

To regulate further nonprofit corporations established for the purpose of maintaining and operating health care service plans; to amend further sections 304, 305, 306, 307 and progressively to 311 and 313 of Title 28, Code of Alabama of 1940, as amended, relating to such nonprofit corporations; and to provide for the continuation of the existence of said corporations organized prior to and existing on the effective date of this Act.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 304, 305, 306, 307, 308, 309, 310, 311 and 313 of Title 28 of the Code of Alabama of 1940, as heretofore amended, are hereby further amended to read as follows:

"Section 304. **Application of Article.**—Any non-stock corporations organized not for profit for the purpose of establishing, maintaining and operating a health care service plan under which health services are furnished to such of the public who become subscribers to such plan pursuant to contracts are authorized and shall be governed by the provisions of this article.

"Section 305. **Incorporation.**—The incorporators of any corporation to be governed by this article shall prepare and file in the office of the probate judge of the county in which said corporation is to have its principal place of business a certificate of intention to become such a corporation, which certificate shall be signed by each of the incorporators and shall set forth; the name of the proposed corporation; the objects and purposes for which the corporation is organized; the location of the principal office of the corporation in this state; and the name and post office address of each incorporator, not less than three in number. The certificate may also contain any other provisions, not inconsistent with the provisions of this article, which the incorporators may desire to insert for the regulation of the business or affairs of the corporation or which would be permitted nonprofit corporations by the Alabama Non-Profit Corporation Act, Sections 203-263, Chapter 10, Title 10, Code of Alabama of 1940. The filing in said probate office of such certificate effects the creation of a corporation for the purpose of establishing, maintaining and operating a health care service plan as provided for herein.

"Section 306. **Board of Directors; amendment of certificate; by-laws.**—(a) The property and business of the corporation shall be managed by a Board of Directors with the powers and authority necessary or incidental to the purposes of the corporation. The Board shall be composed of not less than fifteen nor more than twenty-seven directors. Public directors, who shall reflect the social, economic, and geographic characteristics of the population served by the corporation, shall constitute at least a majority of the Board. Providers of health care and their representatives may also serve on the Board but in no event may constitute a majority thereof. Persons who derive income from the delivery or administration of health care or services shall not be eligible to serve as public directors. The by-laws of the corporation shall contain a provision requiring the Board (1) to establish a procedure for the disclosure of and the determination of whether a person is a provider or a representative of a provider of health care and possible conflict of interest situations with respect to directors and (2) to establish and select an Advisory Committee consisting of not more than seven persons, not members of the Board, who are knowledgeable in providing health services and whose functions shall be to consult with and advise the Board of Directors.

(b) The corporation may change its corporate name, the location of its principal place of business, or make such other alteration, amendment, or change in its charter (including, but not limited to, those provided for in Section 10 of this Act) as may be desired in the following manner: its Board of Directors, by a majority vote thereof, either in person or by proxy, at any regular meeting of said Board, or at any special meeting called for the purpose, shall adopt a resolution or resolutions setting forth the respect or respects in which the charter of the corporation shall be altered, amended, or changed, and the report thereof, certified by the president or the secretary of the corporation under corporate seal, if any, shall be filed and recorded in the office of the judge of probate of the county in which the corporation was organized, and, upon the filing of same, its certificate of incorporation shall be deemed to be altered, amended, or changed; provided, however, that such certificate of alteration, amendment, or change shall contain only such provisions as would be lawful and proper to insert in an original certificate of incorporation made at the time of making such amendment.

(c) The power to adopt, alter, amend, or repeal by-laws shall be vested in the Board of Directors. The by-laws may contain any provisions for the regulation and management of the affairs of the corporation, including provisions for the number and selection of the Board of Directors, not inconsistent with this article.

"Section 307. **Health care facilities which may participate.** —Any health care facility capable of entering into a binding contract may participate as a member of said corporation if the health care facility (1) is approved by the appropriate state licensing agency having regulatory control over such facility and (2) is accepted as a member by majority vote of the corporation's Board of Directors. The corporation and all such health care facilities approved and accepted for membership shall enter into contracts which shall govern their respective rights and obligations and which shall be adopted and may be altered, amended, or repealed by majority vote of the Board of Directors of the corporation. The Board of Directors of the corporation may terminate such membership and the contract of any health care facility for any cause deemed proper by it at any time, by a majority vote. Such member may be reinstated by a majority vote of the Board of Directors.

"Section 308. **Certificates of authority; certificates to public.**—Every corporation organized under the provisions of this article shall procure from the Commissioner of Insurance a certificate of authority to do business for which the corporation shall pay the sum of two hundred dollars, and such cer-

tificates of authority shall be renewed thereafter on or before the first day of March of each year. The corporation may then enter into contracts with the public, subject to the restrictions herein contained, for benefits under its health service plan. It shall be the duty of such corporation to enter into contracts with and issue certificates to those of the public who may desire to avail themselves of the benefits of said health service plan and who, under its rules and regulations, make application and are eligible therefor. Such contracts may provide for more than one class of services or benefits, and may designate the person or persons, or the class of persons, entitled thereto, may designate the health care facilities and providers which render the services provided for, and may specify the charge or dues required to be paid for such services or benefits. No such corporation shall issue or sell any contract until the form of the same has been filed with the Commissioner of Insurance.

"Section 309. **Rights of holders of certificates.** — Any holder in good standing of a certificate for such health service may select any health care facility which may be designated by such corporation to render the necessary health service thereunder.

"Section 310. **Certificates of authority for agent.**—A corporation organized under the provisions of this article shall obtain from the Commissioner of Insurance a certificate of authority for every individual agent writing or soliciting health care certificates for said corporation and only agents holding such certificates shall be authorized to solicit certificates for said corporation. For each certificate so issued the corporation shall pay to the Commissioner of Insurance the sum of five dollars and such certificates shall be renewable in January of each year. It shall also be the duty of the corporation organized under the provisions of this article to file with the Commissioner of Insurance two copies of all health service certificates which the said corporation proposes to issue or sell in this state.

"Section 311. **Rates and charges; examinations and visitations.**—(a) The rates, charges, fees, and dues to be paid by the public for benefits under said health service plan and for contracts or certificates covering same shall not be unreasonably high or excessive, shall be adequate to meet the liability assumed under such contracts and all expenses in connection therewith, shall be adequate for the safeness and soundness of the corporation, and shall take into account past and prospective loss experience. Said corporation shall file with the Commissioner of Insurance any change in its rates, charges, fees, and dues, and as soon as reasonably possible after the filing has been made the Commissioner shall, in writing, approve or disapprove the same, provided that unless disapproved within

30 days after filing such changed rates, charges, fees, or dues shall be deemed to be approved by him. The Commissioner shall approve such rates, charges, fees, and dues which are consistent with, and shall disapprove such rates, charges, fees, and dues which are not consistent with, the standards and factors set forth in the first sentence of this section. Provided, however, that notwithstanding the foregoing, when a filing of changes in rates, charges, fees, and dues for existing classifications of risks does not involve a change in the relationship between such rates and the expense portion thereof, or does not involve a change of the element of expenses which are paid as a percentage of premiums, and does not involve a change in rate relativities among such classifications on any basis other than loss experience, the changed rates in such filing shall become effective upon the date or dates specified in the filing and shall be deemed to meet the requirements of this section.

(b) The Commissioner of Insurance or any of his designated deputies or examiners shall have the power of visitation and examination into the affairs of such corporation and shall have free access to all books, papers, and documents that relate to the business of said corporation and may summon and qualify witnesses under oath and examine them in relation to the affairs, transactions, and conditions of the corporation, and make public disclosure of his findings. Such examination shall be made at the expense of the corporation.

"Section 313. **Review in court.**—All decisions, findings, and orders of the Commissioner of Insurance made under the provisions of this article shall be subject to review, revision, and reversal by proper proceedings brought in any court of competent jurisdiction within 30 days from the date of the decision, finding, or order, and the decision of such court may be reviewed by appeal."

Section 2. Any corporation organized prior to and existing on the effective date of this Act under the provisions of Sections 304-316, Title 28, Code of Alabama of 1940, as heretofore amended, shall continue in existence after the effective date of this Act, and this Act shall not interrupt or affect the corporate existence of any such corporation heretofore organized and existing. However, any such corporation heretofore organized and existing shall within 90 days after the effective date of this Act take such action as may be necessary to conform its organization, business, and affairs to the provisions of this Act.

Section 3. The provisions of this Act are severable. If any section, clause, sentence, paragraph, part, or provision of the

Act is declared invalid, unconstitutional, or ineffective, such declaration shall not affect any and all parts which remain.

Section 4. All laws or parts of laws which conflict with this Act are hereby repealed; provided, however, that this Act shall not be construed to repeal, amend, or affect any provision contained in Sections 312, 314, 315 or 316 of Title 28, Code of Alabama of 1940, as amended.

Section 5. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 7, 1973.

Time: 4:20 P.M.

Act No. 1042 S. 109—Harris

AN ACT

To enact the Alabama Insurance Holding Company System Regulatory Act relating to insurance; to provide for the regulation of insurance holding company systems; to define the term "insurance holding company system" and certain other terms; to provide for and regulate the acquisition of subsidiaries of insurers; to regulate the acquisition of control of or merger with domestic insurers; to provide for the filing of certain information with the Commissioner of Insurance; to prescribe grounds for approval of mergers and acquisitions; to provide for notice and hearing; to provide for exemptions; to provide for registration of insurers and to prescribe information to be filed; to provide for amendments to registration statements; to provide for exemptions and disclaimers; to provide standards for material transactions between insurers and their affiliates; to regulate extraordinary dividends and distributions; to provide for examination by the Commissioner of Insurance with the respect to the verification of information required to be filed; to provide confidential treatment for information filed pursuant to the provisions of the Act; to empower the Commissioner of Insurance to issue rules, regulations, and orders to carry out and administer the provisions of the Act; to authorize the Commissioner of Insurance to enjoin violations of the Act; to prohibit voting of equity securities acquired in violation of the Act; to provide for the sequestration of securities acquired contrary to the provisions of the Act; to provide criminal penalties; to provide for receivership, revocation or suspension of license for violation of the Act; to provide for judicial review; to supersede conflicting laws; to provide for separability of provisions; and to provide an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. This Act may be cited as the Alabama Insurance Holding Company System Regulatory Act.

Section 2. Definitions. As used in this Act, the following terms shall have the respective meanings hereinafter set forth, unless the context shall otherwise require:

(a) **Affiliate.** An "affiliate" of, or person "affiliated" with, a specific person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(b) **Commissioner.** The term "Commissioner" shall mean the Commissioner of Insurance, his deputies, or the Insurance Department as appropriate.

(c) **Control.** The term "control" (including the terms "controlling," "controlled by" or "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or non-management services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, fifteen (15) percent or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by Section 5(i) that control does not exist in fact Such "Control" as used herein shall not be deemed to exist where proxies have been obtained by management of such insurer solely in connection with voting at an annual or other regular meeting of the shareholders of such insurer. The Commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(d) **Insurance Holding Company System.** An "insurance holding company system" consists of two or more affiliated persons, one or more of which is an insurer.

(e) **Insurer.** The term "insurer" shall mean an insurance company as set forth in Section 3, Act No. 407, H. 198, General Acts of Alabama 1971, (Title 28A, Code of Alabama, 1940, as amended) except that it shall not include (1) agencies, authorities or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state, (2) fraternal benefit societies, or (3) non-profit medical and hospital service associations.

(f) **Person.** A "person" is an individual, a corporation, a partnership, a limited partnership, an association, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing acting in concert,

but shall not include any securities broker performing no more than the usual and customary broker's function.

(g) **Securityholder.** A "securityholder" of a specified person is one who owns any security of such person, including common stock, preferred stock, debt obligations, and any other security convertible into or evidencing the right to acquire any of the foregoing.

(h) **Subsidiary.** A "subsidiary" of a specified person is an affiliate controlled by such person directly or indirectly through one or more intermediaries.

(i) **Voting Security.** The term "voting security" shall include any security convertible into or evidencing a right to acquire a voting security.

Section 3. Subsidiaries and Affiliates of Insurers.

(a) **Authorization.** Any domestic insurer, either by itself or in cooperation with one or more persons, may organize or acquire one or more subsidiaries or affiliates in accordance with the provisions contained in this Section. Such subsidiaries or affiliates may conduct any kind of business or businesses permitted by the Constitution and the laws of this State and their authority to do so shall not be limited by reason of the fact that they are subsidiaries or affiliates of a domestic insurer.

(b) **Additional Investment Authority.** In addition to any other statute of this State, now existing or hereafter enacted, expressly authorizing investments in common stock, preferred stock, debt obligations and other securities, a domestic insurer may also invest in common stock, preferred stock, debt obligations and other securities of one or more subsidiaries or affiliates. In the event any such investments shall be made after the effective date of this Act, then all such investments of such domestic insurer, whether made prior to or subsequent to the effective date of this Act, shall be stated in all financial statements of such insurer filed with the Commissioner at values determined as follows: (1) all investments in common stock, preferred stock and other equity securities in such subsidiaries or affiliates shall be valued at the net asset (book) value of such securities; (2) all debt obligations shall be valued in accordance with standards and procedures established by the Commissioner which shall be in reasonable accord with the procedures and rules for valuing such securities as may be recommended from time to time by the National Association of Insurance Commissioners.

(c) **Cessation of Control.** If an insurer ceases to control a subsidiary, it shall dispose of any investment therein made

pursuant to this Section within three (3) years from the time of the cessation of control or within such further time as the Commissioner may prescribe, unless at any time after such investment shall have been made, such investment shall have met the requirements for investment under any other law of this State, and the insurer has notified the Commissioner thereof.

Section 4. Acquisition of Control of or Merger with Domestic Insurer.

(a) **Filing and Approval Requirements.** No person other than the issuer shall make a tender offer for or a request or invitation for tenders of, or enter into any agreement to exchange securities for, or acquire in the open market, any voting security of a domestic insurer if, after the consummation thereof, such person would, directly or indirectly (or by conversion or by exercise of any right to acquire) be in control of such insurer, and no person shall enter into an agreement to merge with or otherwise to acquire control of a domestic insurer unless, at the time any such offer, request, or invitation is made or any such agreement is entered into, or prior to the acquisition of such securities if no offer or agreement is involved, or within fifteen (15) days after any such offer, request or invitation is made or any such agreement is entered into, such person has filed with the Commissioner and has sent to such insurer a statement containing the information required by this Section and such offer, request, invitation, agreement or acquisition either: (i) has been approved by the Commissioner in the manner hereinafter prescribed or (ii) expressly states that it is subject to approval by the Commissioner in the manner hereinafter prescribed. An offer, request, invitation, agreement or acquisition which contains such a condition and which is approved by the Commissioner in the manner so prescribed shall be effective and binding according to its terms from the date on which it was made.

(b) **Content of Statement.** The statement to be filed with the Commissioner hereunder shall be made under oath or affirmation and shall contain the following information.

(1) The name and address of each person by whom or on whose behalf the merger or other acquisition of control referred to in subsection (a) is to be effected (hereinafter called "acquiring party"), and

(i) if such person is an individual, his principal occupation and all offices and positions held during the past five (5) years, and any conviction of crimes other than minor traffic violations during the past ten (10) years;

(ii) if such person is not an individual, a report of the nature of its business operations during the past five (5) years or for such lesser period as such person and any predecessors thereof shall have been in existence; an informative description of the business intended to be done by such person and such person's subsidiaries; and a list of all individuals who are or who have been selected to become directors or executive officers of such person, or who perform or will perform functions appropriate to such positions. Such list shall include for each such individual the information required by paragraph (i) of this subsection.

(2) The source, nature and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a description of any transaction wherein funds were or are to be obtained for any such purpose, and the identity of persons furnishing such consideration; provided, however, that where a source of such consideration is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential if the person filing such statement so requests.

(3) Fully audited financial information as to the earnings and financial condition of each acquiring party for the preceding five (5) fiscal years of each such acquiring party (or for such lesser period as such acquiring party and any predecessors thereof shall have been in existence), and similar unaudited information as of a date not earlier than ninety (90) days prior to the filing of the statement; provided, however, in the case of an acquiring party which is an insurer actively engaged in the business of insurance, the financial statements of such insurer need not be audited, except such audit may be required if the need therefor is determined by the Commissioner.

(4) Any plans or proposals which each acquiring party may have to liquidate such insurer, to sell its assets or merge or consolidate it with any person, or to make any other material change in its business or corporate structure or management.

(5) The number of shares of any security referred to in subsection (a) of this Section which each acquiring party proposes to acquire, and the terms of the offer, request, invitation, agreement, or acquisition referred to in subsection (a), and a statement as to the method by which the fairness of the proposal was arrived at.

(6) The amount of each class of any security referred to in subsection (a) which is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party.

(7) A full descrption of any contracts, arrangements or understandings with respect to any security referred to in subsection (a) in which any acquiring party is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. Such description shall identify the persons with whom such contracts, arrangements or understandings have been entered into.

(8) A description of the purchase of any security referred to in subsection (a) during the twelve (12) calendar months preceding the filing of the statement, by any acquiring party, including the dates of purchase, names of the purchasers and consideration paid or agreed to be paid therefor.

(9) A description of any recommendations to purchase any security referred to in subsection (a) made during the twelve (12) calendar months preceding the filing of the statement, by any acquiring party or by anyone based upon interviews or at the suggestion of such acquiring party.

(10) Copies of all tender offers for, requests or invitations for tenders of, exchange offers for, and agreements to acquire or exchange any securities referred to in subsection (a), and (if distributed) of additional soliciting material relating thereto.

(11) The terms of any agreement, contract or understanding made with any broker-dealer as to solicitation of securities referred to in subsection (a) for tender, and the amount of any fees, commissions or other compensation to be paid to broker-dealers with regard thereto.

(12) Such additional information as the Commissioner may by rule or regulation prescribe as necessary or appropriate for the protection of policyholders and securityholders of the insurer or in the public interest.

If the person required to file the statement referred to in subsection (a) is a partnership, limited partnership, syndicate or other group, the Commissioner may require that the information called for by paragraphs (1) through (12) above shall be given with respect to each partner of such partnership or limited partnership, each member of such syndicate or group, and each person who controls such partner or member. If any such partner, member or person is a corporation or the person required to file the statement referred to in subsection (a) is a corporation, the Commissioner may require that the information called for by paragraphs (1) through (12) shall be

given with respect to such corporation, each officer and director of such corporation, and each person who is directly or indirectly the beneficial owner of more than fifteen (15) percent of the outstanding voting securities of such corporation. If any material change occurs in the facts set forth in the statement filed with the Commissioner and sent to such insurer pursuant to this Section, an amendment setting forth such change, together with copies of all documents and other materials relevant to such change, shall be filed with the Commissioner and sent to such insurer within two (2) business days after the person learns of such change. Such insurer shall send such amendment to its shareholders.

(c) **Alternative Filing Materials.** If any offer, request, invitation, agreement or acquisition referred to in subsection (a) is proposed to be made by means of a registration statement under the Securities Act of 1933 or in circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934, or under a state law requiring similar registration or disclosure, the person required to file the statement referred to in subsection (a) may utilize such documents in furnishing the information called for by that statement.

(d) **Approval by Commissioner; Hearings.** (1) The Commissioner shall approve any merger or other acquisition of control referred to in subsection (a) unless, after a public hearing thereon, he finds that:

(i) After the change of control the domestic insurer referred to in subsection (a) would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

(ii) the effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in this State or to create a monopoly therein;

(iii) the financial condition of any acquiring party is such as might jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders;

(iv) the plans or proposals which the acquiring party has to liquidate the insurer, sell its assets or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the insurer and not in the public interest; or

(v) the competence, experience, and integrity of those persons who would control the operation of the insurer are such that

it would not be in the interest of policyholders of the insurer and of the public to permit the merger or other acquisition of control. (2) The public hearing referred to in paragraph (1) shall be held within forty-five (45) days after the statement required by subsection (a) is filed, and at least twenty (20) days notice thereof shall be given by the Commissioner to the person filing the statement. Not less than fifteen (15) days notice of such public hearing shall be given by the person filing the statement to the insurer and to such other persons as may be designated by the Commissioner. The insurer shall give such notice to its securityholders. The Commissioner shall make a determination within thirty (30) days after the conclusion of such hearing. At such hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent, and any other person whose interest may be affected thereby shall have the right to present evidence, examine and cross-examine witnesses, and offer oral and written arguments and in connection therewith shall be entitled to conduct discovery proceedings in the same manner as is presently allowed in the Circuit Courts of this State. All discovery proceedings shall be concluded not later than five (5) days prior to the commencement of the public hearing.

(e) **Mailings to Stockholders; Payments of Expenses.** All statements, amendments, or other material filed pursuant to subsection (a) or (b), and all notices of public hearings held pursuant to subsection (d), shall be mailed by the insurer to its stockholders within ten (10) business days after the insurer has received such statements, amendments, other material, or notices. The expenses of mailing shall be borne by the person making the filing. As security for the payment of such expenses, such person shall file with the Commissioner an acceptable bond or other deposit in an amount to be determined by the Commissioner.

(f) **Exemptions.** The provisions of this Section shall not apply to:

(1) any offer, request, invitation, agreement or acquisition by the person referred to in subsection (a) of any voting security referred to in subsection (a) which, immediately prior to the consummation of such offer, request, invitation, agreement or acquisition, was not issued and outstanding;

(2) any offer, request, invitation, agreement or acquisition which the Commissioner by order shall exempt therefrom as (i) not having been made or entered into for the purpose and not having the effect of changing or influencing the control of a domestic insurer, or (ii) as otherwise not comprehended within the purposes of this Section.

(g) **Violations.** The following shall be violations of this Section:

(1) the failure to file any statement, amendment, or other material required to be filed pursuant to subsection (a) or (b); or

(2) the effectuation or any attempt to effectuate an acquisition of control of, or merger with, a domestic insurer unless the Commissioner has given his approval thereto.

(h) **Jurisdiction; Consent to Service of Process.** The courts of this State are hereby vested with jurisdiction over every person not resident, domiciled, or authorized to do business in this State who files a statement with the Commissioner under this Section, and over all actions involving such person arising out of violations of this Section, and each such person shall be deemed to have performed acts equivalent to and constituting an appointment by such a person of the Commissioner to be his true and lawful attorney upon whom may be served all lawful process in any action, suit or proceeding arising out of violations of this Section. Copies of all such lawful process shall be served on the Commissioner and transmitted by registered or certified mail by the Commissioner to such person at his last known address.

Section 5. Registration of Insurers.

(a) **Registration.** Every insurer which is authorized to do business in this State and which is a member of an insurance holding company system shall register with the Commissioner, except a foreign insurer subject to disclosure requirements and standards adopted by statute or regulation in the jurisdiction of its domicile which are substantially similar to those contained in this Section. Any insurer which is subject to registration under this Section shall register within sixty (60) days after the effective date of this Act or fifteen (15) days after it becomes subject to registration, whichever is later, unless the Commissioner for good cause shown extends the time for registration, and then within such extended time. The Commissioner may require any authorized insurer which is a member of a holding company system which is not subject to registration under this Section to furnish a copy of the registration statement or other information filed by such insurance company with the insurance regulatory authority of domiciliary jurisdiction.

(b) **Information and Form Required.** Every insurer subject to registration shall file a registration statement on a form provided by the Commissioner which shall contain current information about:

(1) the capital structure, general financial condition, ownership and management of the insurer and any person controlling the insurer;

(2) the identity of every member of the insurance holding company system;

(3) the following agreements in force, relationships subsisting and transactions currently outstanding between such insurer and its affiliates;

(i) loans, other investments, or purchases, sales or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates;

(ii) purchases, sales or exchanges of assets;

(iii) transactions not in the ordinary course of business;

(iv) guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business;

(v) all management and service contracts and all cost-sharing arrangements, other than cost allocation arrangements based upon generally accepted accounting principles; and

(vi) reinsurance agreements covering all or substantially all of one or more lines of insurance of the ceding company;

(4) other matters concerning transactions between registered insurers and any affiliates as may be included from time to time in any registration forms adopted or approved by the Commissioner.

(c) **Materiality.** No information need be disclosed on the registration statement filed pursuant to Section 5(b) if such information is not material for the purposes of this Section. Unless the Commissioner by rule, regulation or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit, or investments, involving one-half of 1 percent or less of an insurer's admitted assets as of the 31st day of December next preceding shall not be deemed material for purposes of this Section.

(d) **Amendments to Registration Statements.** Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions on amendment forms provided by the Commissioner within fifteen (15) days after the end of the month in which it learns of each such change or addition, provided, however, that subject to subsection (c) of Section 6,

each registered insurer shall so report all dividends and other distributions to shareholders within two business days following the declaration thereof.

(e) **Termination of Registration.** The Commissioner shall terminate the registration of any insurer which demonstrated that it no longer is a member of an insurance holding company system.

(f) **Consolidated Filing.** The Commissioner may require or allow two or more affiliated insurers subject to registration hereunder to file a consolidated registration statement or consolidated reports amending their consolidated registration statement or their individual registration statements.

(g) **Alternative Registration.** The Commissioner may allow an insurer which is authorized to do business in this State and which is part of an insurance holding company system to register on behalf of any affiliated insurer which is required to register under subsection (a) and to file all information and material required to be filed under this Section.

(h) **Exemptions.** The provisions of this Section shall not apply to any insurer, information or transaction if and to the extent that the Commissioner by rule, regulation, or order shall exempt the same from the provisions of this Section.

(i) **Disclaimer.** Any person may file with the Commissioner a disclaimer of affiliation with any authorized insurer of such a disclaimer may be filed by such insurer or any member of an insurance holding company system. The disclaimer shall fully disclose all material relationships and bases for affiliation between such person and such insurer as well as the basis for disclaiming such affiliation. After a disclaimer has been filed, the insurer shall be relieved of any duty to register or report under this Section which may arise out of the insurer's relationship with such person unless and until the Commissioner disallows such a disclaimer. The Commissioner shall disallow such a disclaimer only after furnishing all parties in interest with notice and opportunity to be heard and after making specific findings of fact to support such disallowance.

(j) **Violations.** The failure to file a registration statement or any amendment thereto required by this Section within the time specified for such filing shall be a violation of this Section.

Section 6. Standards.

(a) **Transactions with Affiliates.** Material transactions by registered insurers with their affiliates shall be subject to the following standards:

(1) the terms shall be fair and reasonable;

(2) the books, accounts and records of each party will be so maintained as to cearly and accurately disclose the precise nature and details of the transactions; and

(3) the insurer's surplus as regards policyholders following any dividends or distributions to shareholder; affiliates shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(b) **Adequacy of Surplus.** For purpose of this Act in determining whether an insurer's surplus as regards policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the following factors, among others, shall be considered:

(1) the size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force and other appropriate criteria;

(2) the extent to which the insurer's business is diversified among the several lines of insurance;

(3) the number and size of risks insured in each line of business;

(4) the extent of the geographical despersion of the insurer's insured risks;

(5) the nature and extent of the insurer's reinsurance program;

(6) the quality, diversification, and liquidity of the insurer's investment portfolio;

(7) the recent past and projected future trend in the size of the insurer's surplus as regards policyholders;

(8) the surplus as regards policyholders maintained by other comparable insurers;

(9) the adequacy of the insurer's reserves; and

(10) the quality and liquidity of investments in subsidiaries made pursuant to Section 3. The Commissioner may treat any such investment as a disallowed asset for purposes of determining the adequacy of surplus as regards policyholders whenever in his judgment such investment so warrants.

(c) **Dividends and Other Distributions.** No insurer subject to registration under Section 5 shall pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until (i) thirty (30) days after the Commissioner

has received notice of the declaration thereof and has not within such period disapproved such payment, or (ii) the Commissioner shall have approved such payment within such 30-day period.

For purposes of this Section, an extraordinary dividend or distribution includes any dividend or distribution of cash or other property whose fair market value, together with that of other dividends or distributions made within the preceding twelve (12) months exceeds the greater of (i) ten (10) percent of such insurer's surplus as regards policyholders as of the 31st day of December next preceding, or (ii) the net gain from operations of such insurer, if such insurer is a life insurer, or the net investment income, if such insurer is not a life insurer, for the twelve (12) month period ending the 31st day of December next preceding, but shall not include prorata distributions of any class of the insurer's own securities. Notwithstanding any other provision of law, an insurer may declare an extraordinary dividend or distribution which is conditional upon the Commissioner's approval thereof, and such a declaration shall confer no rights upon shareholders until (i) the Commissioner has approved the payment of such dividend or distribution or (ii) the Commissioner has not disapproved such payment within the 30-day period referred to above.

Section 7. Examination.

(a) **Power of Commissioner.** Subject to the limitation contained in this Section and in addition to the powers which the Commissioner has under Sections 27, 35, 38, 41, Acts No. 407, H. 198, General Acts of Alabama 1971, (Title 28A, Code of Alabama 1971, (Title 28A, Code of Alabama, 1940, as amended) relating to the examination of insurers, the Commissioner shall also have the power to order any insurer registered under Section 5 to produce such records, books, or other information papers in the possession of the insurer or its affiliates as shall be necessary to ascertain the financial condition or legality of conduct of such insurer and to verify the information required to be contained in the insurer's registration statement, and any additional information pertinent to transactions between the insurer and its affiliates. In the event such insurer fails to comply with such order, the Commissioner shall have the power to examine such affiliates to obtain such information.

(b) **Purpose and Limitation of Examination.** The Commissioner shall exercise his power under subsection (a) above only if the examination of the insurer under Sections 27, 35, 38, 41, Act No. 407, H. 198, General Acts of Alabama 1971, (Title

28A, Code of Alabama, 1940, as amended) is inadequate or the interests of the policyholders of such insurer may be adversely affected.

(c) **Use of Consultants.** The Commissioner may retain at the registered insurer's expense such attorneys, actuaries, accountants, and other experts not otherwise a part of the Commissioner's staff as shall be reasonably necessary to assist in the conduct of the examination under subsection (a) above. Any persons so retained shall be under the direction and control of the Commissioner and shall act in a purely advisory capacity.

(d) **Expenses.** Each registered insurer producing for examination records, books, and papers pursuant to subsection (a) above shall be liable for and shall pay the expense of such examination as provided in Section 40, Act No. 407, H. 198, General Acts of Alabama 1971, (Title 28A, Code of Alabama, 1940, as amended).

Section 8. Confidential Treatment. All information, documents and copies thereof obtained by or disclosed to the Commissioner or any other person in the course of an examination or investigation made pursuant to Section 7 and all information reported pursuant to Section 5, shall be given confidential treatment and shall not be subject to subpoena and shall not be made public by the Commissioner or any other person, except to insurance departments of other states, without the prior written consent of the insurer to which it pertains unless the Commissioner, after giving the insurer and its affiliates who would be affected thereby, not less than five (5) days written notice and opportunity to be heard, determines that the interests of policyholders, shareholders, or the public will be served by the publication thereof, in which event he may publish all or any part thereof in such manner as he may deem appropriate.

Section 9. Rules and Regulations. The Commissioner may issue such rules, regulations, and orders as shall be necessary to carry out the provisions of this Act.

Section 10. Injunctions; Prohibitions Against Voting Securities; Sequestration of Voting Securities.

(a) **Injunctions.** Whenever it appears to the Commissioner that any insurer or any director, officer, employee or agent thereof has committed or is about to commit a violation of this Act or of any rule, regulation or order issued by the Commissioner hereunder, the Commissioner may apply to the Circuit Court sitting in Equity for the county in which the principal office of the insurer is located, or if such insurer has no such office in this State, then to the Circuit Court for Montgomery County sitting in Equity, for an order enjoining such

insurer or such director, officer, employee or agent thereof from violating or continuing to violate this Act or any such rule, regulation, or order, and for such other equitable relief as the nature of the case and the interests of the insurer's policyholders, creditors and shareholders or the public may require.

(b) **Voting of Securities; When Prohibited.** No security which is the subject of any agreement or arrangement regarding acquisition, or which is acquired or to be acquired, in contravention of the provisions of this Act or of any rule, regulation or order issued by the Commissioner hereunder may be voted at any shareholders' meeting, or may be counted for quorum purposes, and any action of shareholders requiring the affirmative vote of a percentage of shares may be taken as though such securities were not issued and outstanding; but no action taken at any such meeting shall be invalidated by the voting of such securities, unless the action would materially affect control of the insurer or unless the courts of this State have so ordered. If an insurer or the Commissioner has reason to believe that any security of the insurer has been or is about to be acquired in contravention of the provisions of this Act or of any rule, regulation or order issued by the Commissioner hereunder, the insurer or the Commissioner may apply to the Circuit Court for Montgomery County sitting in Equity or to the Circuit Court sitting in Equity for the county in which the insurer has its principal place of business to enjoin any offer, request, invitation, agreement or acquisition made in contravention of Section 4 of this Act or any rule, regulation, or order issued by the Commissioner thereunder to enjoin the voting of any security so acquired, to void any vote of such security already cast at any meeting of shareholders, and for such other equitable relief as the nature of the case and the interests of the insurer's policyholders, creditors and shareholders or the public may require.

(c) **Sequestration of Voting Securities.** In any case where a person has acquired or is proposing to acquire any voting securities in violation of this Act or any rule, regulation or order issued by the Commissioner hereunder, the Circuit Court for Montgomery sitting in Equity or the Circuit Court sitting in Equity for the county in which the insured has its principal place of business may, on such notice as the Court deems appropriate, upon the application of the insurer or the Commissioner seize or sequester any voting securities of the insurer owned directly or indirectly by such person, and issue such orders with respect thereto as may be appropriate to effectuate the provisions of this Act. Notwithstanding any other provision of law, for the purposes of this Act the situs of the

ownership of the securities of domestic insurers shall be deemed to be in this State.

Section 11. Criminal Proceedings. Whenever it appears to the Commissioner that any insurer or any director, officer, employee or agent thereof has committed a willful violation of this Act, the Commissioner may cause criminal proceedings to be instituted by the Solicitor or District Attorney for the county in which the principal office of the insurer is located or if such insurer has no such office in the State, then by the Solicitor or District Attorney for Montgomery County, against such insurer or the responsible director, officer, employee or agent thereof. Any insurer which willfully violates this Act may upon conviction be fined not more than ten thousand dollars ($10,000). Any individual who willfully violates this Act may upon conviction be fined not more than one thousand dollars ($1,000) or, if such willful violation involves the deliberate perpetration of a fraud upon the Commissioner, imprisoned not more than two (2) years, or both.

Section 12. Receivership. Whenever it appears to the Commissioner that any person has committed a violation of this Act which so impairs the financial condition of a domestic insurer as to threaten imminent insolvency or impairment as defined in Section 621 (1) of the Alabama Insurance Code or make the further transaction 621 (1) of the Alabama Insurance Code or make the further transaction of business by it hazardous to its policyholders, creditors, shareholders or the public, then the Commissioner may proceed as provided in Sections 622, 623, 624, 625, and 626, Act No. 407, H. 198, General Acts of Alabama 1971, (Title 28A, Code of Alabama, 1940, as amended) to take possession of the property of such domestic insurer and to conduct the business thereof.

Section 13. Revocation, Suspension, or Non-Renewal of Insurer's License. Whenever it appears to the Commissioner that any person has committed a violation of this Act which makes the continued operation of an insurer contrary to the interests of policyholders or the public, the Commissioner may, after giving notice and an opportunity to be heard, determine to suspend, revoke, or refuse to renew such insurer's license or authority to do business in this State for such period as he finds is required for the protection of policyholders or the public. Any such determination shall be accompanied by specific findings of fact and conclusions of law.

Section 14. Judicial Review; Mandamus. (a) Any person aggrieved by any act, determination, rule, regulation, or order or any other action of the Commissioner pursuant to this Act, may appeal therefrom within 30 days after such action, deter-

mination, rule, or regulation is taken or issued, in accordance with the provisions of Section 47 of the Alabama Insurance Code, except that the Court shall conduct its review without a jury and by trial de novo. Provided, however, that all the parties, including the Commissioner, may stipulate that the review shall be confined to the record. Portions of the record may be introduced by stipulation into evidence in a trial de novo as to those parties so stipulating.

(b) The filing of an appeal pursuant to this Section shall stay the application of any such rule, regulation, order or other action of the Commissioner to the appealing party unless the Court, after giving such party notice and an opportunity to be heard, determines that such a stay would be detrimental to the interests of policyholders, shareholders, creditors or the public.

(c) Any person aggrieved by any failure of the Commissioner to act or to make a determination required by this Act may petition the Circuit Court for Montgomery County for a writ in the nature of a mandamus or a peremptory mandamus directing the Commissioner to act or make such determination forthwith.

Section 15. Conflict with Other Laws. All laws and parts of laws of this State not consistent with this Act are hereby superseded with respect to matters covered by this Act.

Section 16. Separability of Provisions. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provisio nor application, and for this purpose the provisions of this Act are separable.

Section 17. Effective Date. This Act shall take effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved September 7, 1973.

Time: 4:20 P.M.

Act No. 1043 S. 846—Carr

AN ACT

To alter, rearrange and extend the boundary lines and corporate limits of cities having a population of not less than 5,550 nor more than 5,700 inhabitants that lie within counties having a population of not less than 53,000 nor more than 55,000 according to the most recent federal decennial census.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of cities having a population of not less than 5,550 nor more than 5,700 inhabitants that lie within counties having a population of not less than 53,000 nor more than 55,000 inhabitants according to the most recent federal decennial census, are hereby altered, rearranged and extended so as to include within the corporate limits of said city, in addition to the lands now included therein, all of the following territory, to wit:

The southwest quarter of the southwest quarter and the southeast quarter of the southwest quarter of section 25, township 9 south, range 4 east.

Also, tracts 5, 6, 7, 8, 9, 10, 11, 12 and 13 of Rolling Acres Subdivision as recorded in the Probate Office, Marshall County, Alabama in Plat Book 6, page 12.

Also, one acre, more or less, described as follows: Commencing at the southwest corner of the northwest quarter of section 25, township 9 south, range 4 east, thence north 2 degrees, 36 minutes west along the quarter line to Weaver Avenue, thence south 88 degrees, 55 minutes east along said Weaver Avenue 236.5 feet for a point of beginning, thence continue south 88 degree, 55 minutes east along said Weaver Avenue 232.0 feet, thence south 1 degree, 05 minutes west, 297.4 feet, thence south 87 degrees, 46 minutes west, 58.8 feet to the east side of the L & N Railroad right-of-way, thence along said railroad right-of-way north 29 degrees, 02 minutes west, 346.9 feet to the point of beginning, and being a portion of the northwest quarter of the northwest quarter and also a portion of the southwest quarter of the northwest quarter all in section 25, township 9 south, range 4 east.

Also, lots 1, 2, 3, 4, 6, 7, 8, 11, 12, 13, 14, 15 and 16 in Block A of the Rolling Acres Subdivision as recorded in Plat Book 6, page 12 in the Probate Office, Marshall County, Alabama.

Also, lots 1 through 43 inclusive in Block B of the Rolling Acres Subdivision as recorded in Plat Book 6, page 12 in the Probate Office of Marshall County, Alabama.

Also, lots 1 through 25 inclusive in Block C, also lots 32, 33, 34, 35, and 36 in Block C of the Rolling Acres Subdivision as recorded in Plat Book 6, page 12 in the Probate Office, Marshall County, Alabama.

Also, lots 1, 2, 3 and 4 in Block D in Rolling Acres Subdivision as recorded in Plat Book 6, page 12 in the Probate Office, Marshall County, Alabama.

Also, a parcel of land in section 25, township 9 south, range 4 east described as follows: Beginning at the northwest corner of tract no. 11 of Rolling Acres Subdivision, thence north 17 degrees, 57 minutes west, 260 feet to the north boundary line of Section 25, township 9 south, range 4 east, and also the northeast corner of tract no. 9 of Rolling Acres Subdivision, thence in an easterly direction along the north boundary line of said section 25 a distance of 518 feet, more or less, to the northwest corner of tract no. 12 of Rolling Acres Subdivision, thence south 4 degrees, 47 minutes east, 246.6 feet to the northeast corner of tract no. 11 of Rolling Acres Subdivision, thence north 80 degrees, 58 minutes west along said tract 11 451.9 feet to the point of beginning.

These descriptions are intended to include all lands, streets and roads in section 25, township 9 south, range 4 east that are not already within the corporate limits of the city of Boaz, Marshall County, Alabama.

Section 2. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 10, 1973.

Time: 5:10 P.M.

Act No. 1044 S. 850—Weaver

AN ACT

Relating to all counties having populations of not less than 65,000 nor more than 68,000, according to the most recent federal decennial census; providing further for the distribution of fines and forfeitures from convictions in certain cases of traffic violations; validating, ratifying and confirming all prior deposits of such fines and forfeitures; repealing all conflicting laws and parts of laws general, local and special.

Be It Enacted by the Legislature of Alabama:

Section 1. In all counties having populations of not less than 65,000 nor more than 68,000, according to the most recent federal decennial census, one-half of all fines and forfeitures hereafter paid by persons convicted in courts of competent jurisdiction in such counties, where arrests are made by a state officer for violations of the rules of the road, or laws of this state relating to or regulating traffic or operation of motor

vehicles upon the highways of this state, shall be paid into the general funds of the county and the remainder shall be remitted by the proper authority to the State Treasurer who shall credit the same to the proper fund in the state treasury.

Section 2. The deposits of any fines and forfeitures heretofore otherwise deposited prior to the effective date of this act are hereby validated, ratified and confirmed.

Section 3. All laws and parts of laws in conflict with this act whether general, local or special are hereby repealed.

Section 4. The provisions of this act are severable. If part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 10, 1973.

Time: 5:10 P.M.

Act No. 1045 S. 857—Shelby

AN ACT

To further amend Sections 2 and 3 of Act No. 491, S. 444, Regular Session 1961, as amended, An Act relative to cities in the state having a population of not less than 60,000 nor more than 70,000 people, according to the last or any subsequent federal decennial census; providing for a commission form of government in such cities; and providing for the term of the members of said commission board, and the time and manner of calling and holding an election therefor.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 2 of Act No. 491, S. 444, Regular Session 1961, as amended, is hereby further amended to read as follows:

"Section 2. The terms of members of said commission board shall run concurrently, and on the second Tuesday in September of the year 1977, and on the second Tuesday in September of each fourth year thereafter, there shall be held an election for the purpose of electing all three members of said commission board, all of whose tenure of office shall be for a term of four years and until their successors are elected and qualified as herein provided."

Section 2. Section 3 of Act No. 491, S. 444, Regular Session 1961, as amended, is hereby further amended to read as follows:

"Section 3. In said election to be held on the second Tuesday in September, 1977, and in each election to be held thereafter, each office of said commission board to be filled shall be designated, the associate commissioners being designated as associate commissioner number one and associate commissioner number two, respectively, and this shall be shown on the ballot prepared for such election. In filing statement of candidacy each candidate shall designate for which place he desires election. At every election each voter shall vote for only one candidate for each office, and the candidate receiving the highest number of votes for such office shall be elected, provided he receives a majority of the votes cast for such office. In case no one of such candidates shall receive a majority of all votes cast for the office for which he is a candidate, another election shall be held on the same day of the following week for said office, at which the two candidates receiving the highest number of votes at the initial election shall be voted for. The candidate receiving the highest number of votes at such final election shall be declared elected. Each candidate declared elected in any election provided herein shall qualify and take oath of office on the first Monday in October, next, following said election."

Section 3. This Act shall become effective upon its approval by the Governor or its otherwise becoming a law.

Approved September 10, 1973.

Time: 5:10 P.M.

Act No. 1046 S. 861—Weaver

AN ACT

To create the office of county license inspector in all counties of this state having a population of not less than 65,000 or more than 68,000 inhabitants, according to the last or any subsequent Federal decennial census, and to provide for the appointment of a license inspector, fix his compensation, prescribe his duties and define his powers, and provide for the operation of his office.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby created and established the office of county license inspector in all counties of this state having a population of not less than 65,000 nor more than 68,000 inhabitants, according to the last or any subsequent Fedderal decennial census.

Section 2. The license inspector shall, with the approval of the county commission, board of revenue, or any other like

governing bc , be appointed by the chairman of such governing body and shall serve at the pleasure of such appointing authority.

Section 3. The salary of the license inspector shall be in such sum as shall be approved by the governing body of the county and shall be payable in equal monthly installments out of the general fund of the county. The license inspector shall be a county officer and shall maintain his office in the courthouse of the county.

Section 4. The license inspector shall, before entering upon the duties of his office, take the oath of office prescribed in the Constitution, and shall enter into bond, which bond shall be conditioned as other official bonds are conditioned and be in such penal sum and form as the governing body of the county may prescribe. Said bond shall be approved by and be filed with the probate judge of the county and may be made by any surety company or companies authorized and qualified to do business in the State of Alabama. All premiums on said bond shall be payable out of the general fund of the county.

Section 5. The county governing body of such county shall furnish and equip suitable office space in the courthouse for the license inspector, and shall furnish and supply all stationery, equipment and supplies necessary for the conduct of the office, except such stationery and supplies as the law requires the State Department of Revenue or the State Department of Finance to furnish to license inspectors.

Section 6. All duties and authority imposed on or vested in license inspectors by Title 51 of the Code of Alabama, recompiled 1958, as amended, or by any other statute, are hereby imposed upon and vested in the office of county license inspector created by this Act and such further duties as may be prescribed by the governing body of such county.

Section 7. All fees, commissions, and penalties collectible by the license inspector shall be paid into the general fund of the county.

Section 8. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications under this Act, which shall be given effect without the invalid provisions and applications, and to this end the provisions of this Act are declared to be severable.

Section 9. All laws or parts of laws in conflict with this Act are hereby repealed.

Section 10. This Act shall become effective immediately upon its passage and approval by the Governor or its otherwise becoming law.

Approved September 10, 1973.

Time: 5:10 P.M.

Act No. 1047 S. 870—Givhan

AN ACT

Relating to counties having a population of not less than 54,500 nor more than 56,000 according to the most recent federal decennial census; to provide for the total rehabilitation of certain persons, both male and female, convicted of any type crime and sentenced to a term of confinement in the county jail of any such counties.

Be It Enacted by the Legislature of Alabama:

Section 1. The provisions of this Act shall apply to all counties having a population of not less than 54,500 nor more than 56,000 according to the most recent federal decennial census.

Section 2. Definitions, as used in this Act, certain terms shall have the following meaning:

(1) "Board" shall mean County Rehabilitation Board composed of the Probate Judge, the District Attorney and the Sheriff.

(2) "Inmate" shall mean a person either male or female, convicted of a crime and sentenced to a term of confinement in the county jail.

Section 3. Extended Limits of Confinements. The Board shall adopt regulations and policies permitting the Sheriff to extend the limits of the place of confinement of an inmate, as to whom there is reasonable cause to believe he will know his trust, by authorizing him under prescribed conditions, to leave the confines of the county jail unaccompanied by a custodial agent for a prescribed period of time to work at paid employment, while continuing as an inmate in the county jail in which he shall be confined except during the hours of his employment, and traveling thereto and therefrom. Inmates shall participate in paid employment at the discretion of the Board.

Section 4. Wages. The employer of an inmate involved in the work release program shall pay the inmate's wages direct to the Board. The Board may adopt regulations concerning the disbursement of any earnings of the inmates involved in

the work release program. The Board is authorized to withhold from an inmate's earnings 20 percent of his or her gross earnings to pay such cost incident to the inmate's confinement. After 20 percent has been deducted from the inmate's gross pay the remainder of the inmate's earnings shall be credited to his account in a local bank, and upon his release from confinement shall be turned over to the inmate. The Board may elect, however, to pay the remaining 80 percent of the inmate's earnings to his family to be used by them for their support while the inmate is confined, provided the inmate consents to such payment.

Section 5. Escape. The willful failure of an inmate to remain within the extended limits of his confinement or to return to the county jail within the time prescribed by the Sheriff shall be deemed as an escape from the custody of the Sheriff and shall be punishable as prescribed by Title 14, Section 151(1) Code of Alabama.

Section 6. Investigation and Recommendation. Employees of the Board or persons designated by the Board are authorized to make investigations and recommendations pertaining to the validity of request for job opportunities for inmates and to otherwise assist the Sheriff in the implementation of the program herein authorized.

Section 7. Securing Employment. The Board or members of the Board shall endeavor to secure employment for eligible inmates under this Act subject to the following:

(1) Such employment must be at a wage at least as high as the prevailing wage for similar work in the area or community where the work is performed in accordance with the prevailing working conditions in such area;

(2) Such employment shall not result in displacement of employed workers;

(3) Inmates eligible for work release shall not be employed as strike-breakers or in impairing any existing contracts;

(4) Exploitation of eligible inmates, in any form, is prohibited either as it might effect the community, the inmates, or the Board.

Section 8. Education. The Board, at its discretion, may also allow an inmate to participate in the release program to further the inmates education. Under this section the inmate must follow all the rules and regulations prescribed for other inmates participating in the work release program.

Section 9. Furloughs. The Board may adopt rules and allow the Sheriff to grant furloughs or leave time not to exceed three consecutive days or 72 hours to inmates who the Board deems are deserving.

Section 10. Inmate Not An Agent Of State Or County.

No inmate granted privileges under the provisions of this Act shall be deemed to be an agent, employee, or involuntary servant of the Board, State, or County, while involved in the free community or while going to and from employment, or other specified areas or while on furlough.

Section 11. Reports. The Sheriff or person designated by the Board shall prepare an annual report to be filed with the Board not later than sixty days from the close of each fiscal year showing the operations and administrations and suggestions as deemed advisable. The Board shall designate someone to keep such records as they deem appropriate and shall compensate them from the 20% earnings retained from the inmates.

Section 12. Penalty Clause. Anyone violating any of the provisions of this Act shall be guilty of a misdemeanor.

Section 13. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 14. All laws or parts of laws which conflict with this Act are repealed.

Section 15. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 10, 1973.

Time: 5:10 P.M.

Act No. 1048 S. 877—Carr

AN ACT

Relating to counties having a population of not less than 53,000 nor more than 55,000 inhabitants according to the last federal decennial census; to require the use of voting machines at all polling places; to allow the designation of voting places; to permit electors to register votes on any voting machine at the designated voting place; to provide for employment of a custodian of voting machines, how appointed, qualifications, salary, bond; to allow candidates in an election the right to designate a representative to be present at the opening of each voting

machine for tabulation of results; candidates to have right to demand in writing of body in charge of ballot boxes to break seals for recanvass of votes in voting machines.

Be It Enacted by the Legislature of Alabama:

Section 1. The Judge of Probate of counties having a population of not less than 53,000 nor more than 55,000 inhabitants according to the last federal decennial census shall provide voting machines for all elections, and shall determine the number of voting machines seemed necessary to serve adequately the voters at an election, taking into consideration the nature or character of the election; provided, however, that at each election there shall be maintained at each voting place at least one voting machine for each six hundred registered electors, or fraction thereof, residing in the territory served by the voting place designated for said voting place. Except as otherwise provided, in Section 110 of Title 17 *Code of Alabama 1940* as amended, paper ballots shall not be used in elections at any voting place.

Section II. No elector shall vote at any voting place other than the voting place of which he is a qualified elector, but any elector whose name appears on the qualified voter's list at a voting place may vote on any voting machine maintained at such voting place, upon presentation of the identification card issued to him by an election officer serving at such voting place and upon signing the poll list maintained at the voting machine at which he proposes to vote. The voting machine at any such voting place shall be numbered consecutively beginning with number 1, and each machine shall display a card indicating the number of that machine. The numbers on such cards shall be clearly visible from the registration table.

Section III. (a) Subject to the provisions of subsection (b) the Judge of Probate of the county shall designate one voting place in each Precinct within the county, or in the equivalent electoral division by whatever name subsequently known, within the county. There shall be only one voting place in each incorporated municipality. The order so designating voting places shall state the location of the voting place within the electoral division for which said voting place is designated. A copy of said order shall be posted at each court house door.

(b) Except as herein expressly provided, in designating voting places and consolidation of voting places, the county governing body shall be subject to all other laws applicable to the governing body of a county regarding the change or establishment of the districts of a precinct, including but not limited to the provisions of Article 6, Chapter 1, Title 17, *Code of Alabama 1940* as amended.

Section IV. A custodian of voting machines shall be appointed by a committee composed of the Judge of Probate who shall be the Chairman, the Circuit Judge who is senior is office, Tax Collector, Sheriff, and the County Judge. Such custodian of voting machines shall have attended a recognized school that teaches the operation and handling of voting machines, or in lieu thereof must have had at least three years experience in the operation and handling of voting machines. The custodian shall be responsible for performing all duties as set out in Section 115 of Title 17, *Code of Alabama 1940* as amended. The custodian of voting machines shall receive a salary not to exceed $5,000 per annum payable in equal monthly installments and before entering upon his duties shall be bonded in the sum of $10,000 for the faithful performance of his duties as are other public officials.

Section V. Any candidate in an election shall have the right to designate one representative to be present at each polling place, and such representative shall have the right to observe the conduct of the election as a watcher at such polling place as provided by law, but shall also have the right to observe and be present at the opening of each voting machine when the totals of such machines are tabulated by the election officials. Such representative shall be appointed as provided by law.

Section VI. Any candidate in an election shall have the right to make demand in writing to the body which, under the general provisions of law, now have charge of and control over ballot boxes, for an order to break the seals of voting machine for the purpose of recanvassing the vote should same become necessary, whereupon all other articles in the "Act to regulate and control primary elections for the nomination by political parties of candidates for public office" and in the "Election Code" shall be followed in making such recanvass and the machine shall be resealed as therein provided. Such demand in writing shall be made not later than ten days subsequent to such election.

Section VII. All general, local, or special laws, or parts of such laws, which conflict with this Act are hereby repealed.

Section VIII. If any clause, sentence, paragraph, or section of this Act shall for any reason be adjudged by any Court of Competent jurisdiction to be invalid, unconstitutional, or otherwise unlawful, such judgement shall not affect, impair, or invalidate any other portion of this Act, but shall be confined in its operation to the clause, sentence, paragraph, or section directly involved in the controversy in which judgement shall be granted.

Section IX. This Act shall become affective upon its passage and approval by the Governor, or upon its otherwise becoming law.

Approved September 10, 1973.

Time: 5:10 P.M.

Act No. 1049 S. 886—Register

AN ACT

To establish a Civil Service System for Houston County; to provide a policy for the administration of this act; to divide positions in the county into classified and exempt services, and to provide for changes between such services; to provide a status for present employees; to provide personnel rules and personnel plans for Houston County; to provide that the first members of the personnel board shall be members of the existing personnel appeals board created pursuant to Act No. 2262, S. 1234, Regular Session 1971 (Acts 1971, p. 3643), and to provide for their successors in office; to provide for the adoption, amendment and repeal of rules, regulations, determinations, job classification plans, pay plans, and mandatory and/or permissive retirement plans to effectuate the purposes of this act; to provide for the employment of persons with competitive examination; to provide for temporary appointments and the manner in which and the extent to which they shall be made permanent; to provide for the establishment of lists of persons eligible for employment and to establish the manner in which such lists shall be used; to establish a period of probation for certain city employees; to provide for rules governing working hours and leaves of absence; to provide for the laying off of employees; to establish the manner in which employees may be disciplined and to provide a procedure under which certain employees may protest such disciplinary action; to give the Personnel Board the authority to require the attendance of witnesses and the production of documents at such proceedings and to establish penalties for failure to attend or produce records as required; to provide for an appeal from decisions of such board in such protests; to require such board to maintain certain records; to prohibit and fix the punishment for certain political activity by certain employees of the county; to provide for the expenses of such board; to guarantee certain rights to the governing body of Houston County.

Be It Enacted by the Legislature of Alabama:

Section 1. Definition. The following words, terms, and phrases, wherever used herein, shall have the meanings respectively ascribed to them in this section, and shall include the singular as well as the plural:

Allocation means the assignment of positions to a class on the basis of the nature, difficulty and responsibility of work of the positions.

Appointing authority means the official or board designated by resolution of the governing body as being the official or

board having authority to fill vacancies in a specified class, or the governing body itself in the event that the governing body has made no such designation in respect to a class, or having made such designation, has thereafter repealed such resolution.

Board means the Personnel Board of Houston County.

County means Houston County.

Court means the Circuit Court of Houston County, Alabama.

Merit System whenever the term "Merit System" appears, it shall mean the same as "Civil Service System"; within the meaning of this act.

Certify, Certification means the act of supplying the appointing authority with names of applicants deemed eligible for appointment to the class or position to be filled.

Class means a position or group of positions that involve similar duties and responsibilities and require similar qualifications and are designated by a single title indicative of the work to be performed.

Eligible list means a list of names of persons who have successfully completed by examination, written or oral, arranged in the order of their final ratings, as determined by the Personnel Board.

Employee means a person regularly occupying a position in the classified service or a person who is on authorized leave or absence and whose position is being held for him pending his return.

Demotion means removal of an employee from a position in one class to a position in another class having a lower maximum salary limit than the position from which he was removed.

Original appointment means the appointment to a position in the classified service of a person who is not being reemployed from the reemployment list, nor being promoted from the promotional eligible list and who, except for those in the exempt service and those serving under temporary appointment, is not an employee of Houston County.

Original appointment eligible list means the eligible list of persons qualified for original appointment to a position.

Laid-off means separated from the classified service of Houston County because of lack of work or funds or other reason not related to fault, delinquency or misconduct on the part of the employee.

Position means a group of current duties and responsibilities assigned or delegated by competent authority and requiring the full or part time service of one employee.

Promotion means a change of employment from a position of one class to a position of another class which has a higher maximum salary rate.

Promotional eligible list means the eligible list of persons qualified for promotion to a position.

Reemployment list means:

(a) the list of names of former employees who have been laid-off from a position within the past two (2) years who had permanent status in that position so long as that position continued in the classified service, arranged in the inverse order in which they were laid-off.

(b) the list of names of those former employees who resigned or otherwise left Houston County service in good standing at any time within the past two (2) years.

Vacancy means a position duly created with funds provided for payment of a salary, which is not occupied, or which is occupied by a person serving under a temporary appointment.

Section 2. Division Into Exempt and Classified Services. All offices and positions of Houston County shall be divided into the exempt service and the classified service.

1. The exempt service shall include:

(a) the positions of all elected officials of Houston County; (b) the positions of voluntary personnel and personnel appointed to serve without pay; (c) the positions of consultants rendering temporary professional service; (d) all positions involving seasonal or part-time employment; (e) the positions of attorneys rendering legal service; provided, however, such positions in the exempt service held by employees of boards and commissions may be placed in the classified service by resolution of the Personnel Board after favorable recommendation by such other board or commission, and the Personnel Board, in such resolution shall prescribe the conditions under which the employees holding such positions so transferred may acquire permanent status in such positions so long as such positions remain in the classified service; (f) employees not paid exclusively by Houston County.

2. Classified Service:

The classified service shall include all positions in the service of Houston County who are paid out of the General Fund and all other Funds of Houston County and out of funds of boards

and commissions whose employees are placed in the classified service, and which are not specifically placed in the exempt service; provided, however, the Personnel Board may by resolution, pursuant to a recommendation by the boards, remove any position from the classified service and place it in the exempt service. Unless otherwise specifically provided or clearly implied, the provisions of this act shall apply only to the classified service.

Section 3. Status of Present Employees. All employees who have acquired permanent status shall, subject to the provisions of this act, have permanent status in their present positions so long as such positions remain in the classified service. All other employees shall be eligible to acquire permanent status in their present positions so long as such positions remain in the classified service in the manner provided in Section 14, upon completing six months' service in such positions, such time to be computed from the beginning of such service, rather than from the effective date of this act.

Section 4. Board Members. The personnel program established by this act shall be administered by the board. The members of the five member Personnel Appeals Board, created pursuant to Act No. 2262, S. 1234, Regular Session 1971 (Acts 1971, p. 3643) shall be the first members of the personnel board created by this act and such members shall continue to hold office on the personnel board herein created until such time as their respective terms would have expired on the personnel appeals board according to the terms of said Act No. 2262. (Upon the expiration of the terms of each member, his successor shall be appointed by the original appointing authority for terms of six (6) years each; and one member each shall hereafter continue to be appointed by the following; the Houston County Commission, the circuit judge of the twentieth judicial circuit who is a resident of Houston County, probate judge of the county, the judge of the Law and Equity Court of Houston County (or any succeeding statutory inferior court in said county), and by the county employees who will be subject to the provisions of this act.

No person shall be appointed to the personnel board unless he is of recognized good character and ability, and is an actual resident in and qualified elector of the county. No person shall be eligible to appointment or shall continue to be a member of a board created under this act who holds an elective office under the state, county, or any city therein, or who is a candidate for elective office. Vacancies on the board shall be filled for the unexpired terms in the same manner as original appointments are made. The board shall elect a chairman from among its members, who shall preside at its meetings. Three

members shall constitute a quorum for the transaction of any business which may properly come before the board. Each person so appointed shall, within fifteen days after appointment, qualify by making oath that he will faithfully execute the duties of office to the best of his ability and knowledge which oath shall be recorded as provided by law. The board shall adopt reasonable rules regulating the procedure of the board. Notice of all meetings of the board shall be given to each member by the clerk of the board.

Section 5. Meetings, Clerks, Compensation. The personnel board shall meet on the call of the chairman or upon call of three members of said board. Such meetings shall be held in the county courthouse in an office which the county commission shall provide. The board shall designate a clerk of said board. The person designated as the clerk may be an employee of the county in some other capacity. The county commission shall be authorized to employ and to provide for the compensation of such additional clerks to assist the said clerk as it may deem necessary for the administration of this act.

Each member of the board shall be paid $15.00 from the General Fund of Houston County per day or part thereof on which the Board meets. The Board shall not be compensated for more than twenty (20) days per member per year.

Section 6. Rules, Classification Plans, and Pay Plans. So long as the same are not inconsistent with this act, the board shall adopt rules and regulations for the operation of the civil service system established hereby, including, but not limited to a job classification plan, a pay plan, and a plan for the mandatory and/or permissive retirement of employees, and the same shall become operative and have the force and effect of law. All rules, regulations and pay and classification plans in effect at the time of the adoption of this act which are not in conflict with the provisions hereof shall remain in force and effect after the effective date of this act until the same are altered, amended or repealed in the manner hereafter provided.

Section 7. Amendments and Repeal. Any rule, determination, regulation or plan may be amended or repealed in whole or in part in the same manner as is provided herein for the making of such rules, determination, regulation or plans.

Section 8. Job Classification Plan. After the adoption by the governing body of a job classification plan, allocation of each position in the classified service shall be made by the board to the end that all positions in the same class shall be sufficiently alike to permit use of a single descriptive title, the same qualification requirements, the same test of competence, and the same pay scale.

Section 9. Pay Plan. After the adoption by the Personnel Board of a pay plan and any rules of its administration, the board will assign each position to one of the pay ranges provided in the pay plan to the end that the rate or range of compensation for each class provided for in the pay plan shall be such as to reflect fairly the differences in duties and responsibilities in the various classes.

Section 10. Examination. Eligibility for original appointment or promotion to vacancies in positions in the classified service occurring after the adoption of this act shall be determined by the Personnel Board. The Personnel Board shall conduct such examinations as will fairly test the abilities and aptitudes of the applicants with respect to the duties to be performed. Applicants who pass the test and otherwise qualify for original appointment or promotion, as the case may be, shall be placed on the appropriate eligible list for the vacancy. The board may refuse to examine, or after examination refuse to certify the name of anyone who is found to lack any of the established qualification requirements for the position for which he applies or who is physically so disabled as to be unfit to perform duties of the position to which he seeks appointment, or who has been convicted of or is under indictment for any crime involving moral turpitude or who has been guilty of any infamous or disgraceful conduct or who has been dismissed from the public service for delinquency or misconduct or who has intentionally made a false statement of any material fact or practiced or attempted to practice any deception or fraud in his application, or in his examination.

Section 11. Temporary Appointment. Pending the availability of a list of names certified as provided in Section 13 hereof, positions may be filled by temporary appointment. The Personnel Board may grant permanent status in a position in the classified service so long as such position remains in the classified service, to any employee who has served in a vacancy in a position then in the classified service by temporary appointment for at least twelve (12) months and who has passed his examination, if at the time of such action by the governing body no such list of names has been so certified for the vacancy in which the said employee is serving.

Section 12. Lists of Names of Persons Available for Appointment. Lists of names of persons available for appointment to a vacancy in a position in the classified service will be selected for certification as provided in Section 13 hereof in the order in which they appear from among the laid-off persons on the reemployment list, promotional eligible list, original appointment eligible list, and reemployment list composed of former employees for said vacancy, which lists shall have

priority one over the other in the order named. A former employee with probationary status with respect to the vacancy may, with the approval of the appointing authority, have his name placed at such position on the promotional eligible list as the appointing authority may designate. Policies and procedures for administering eligible lists and covering the duration, cancellation, replacement, and consolidation of such lists, and the removal or suspension of names therefrom shall be provided in the personnel rules.

Section 13. Method of Filling Vacancies. Except as hereinafter provided, vacancies in positions in the classified service shall be filled by the appointing authority by the appointment of a person whose name is certified, within thirty (30) days after certification. Certification shall be made upon request of the appointing authority therefor whenever a vacancy exists, the appointing authority, in his discretion, determines that such vacancy shall be filled, and the name of an applicant for such vacancy is eligible for certification. If there is a laid-off person on the reemployment list with respect to a vacancy, only the top name on such list shall be eligible for certification. In the event the top person is not available for appointment, the next ranking names may be certified until the highest ranking person who is available is appointed. In the event there is no such reemployment list, and the names on the promotional eligible list for such vacancy plus the names on the original appointment eligible list for such vacancy equal three (3) or more, the three (3) names ranked highest on the said promotional eligible list shall be eligible for certification provided, however, should the said promotional eligible list not contain three (3) names, then the names appearing thereon, plus such of the names ranked highest on the said original appointment eligible list as will be sufficient to bring the number certified to three (3) shall be eligible for certification. If after making a reasonable effort it should prove impossible for the appointing authority to locate any of the persons so certified or should it become known to the board that any person so certified is not willing to accept the position, the appointing authority may request that additional names be certified until the appointing authority has available to him a list from which to make the appointment containing the aforesaid authorized number of persons all of whom are available for such appointment and willing to accept the position, or, in the event that the list certified to the appointing authority contains fewer than the authorized number of available and willing persons as aforesaid from which to make a selection, the appointing authority, in his discretion, may choose from the remaining certified names, make a temporary appointment, or make no appointment. In the event that there does not exist an employment

list which the board deems to be appropriate from which to fill the vacancy, the board shall prepare such a list within a reasonable time after receipt of the request of the appointing authority that eligibility be certified. Provided, however, nothing herein contained shall be construed as preventing an appointing authority, in his discretion, from withdrawing his request for the aforesaid certification, either before or after such certification has been made in response to his request therefor. Whenever a person has been certified to and rejected by an appointing authority three (3) times, the board may remove the name of such person from the eligible list on which his name appeared. A person shall be deemed to have been so rejected by an appointing authority when a vacancy is filled from an eligible list on which his name appeared and such person was not selected to fill the vacancy.

Section 14. Probation. Except as provided in Sections 2 and 3, to acquire permanent status in a position in the classified service so long as such position remains in the classified service, employees shall be subject to a period of probation. The regular period of probation shall be six (6) months; provided, however, the board may adopt rules and regulations specifying a longer period of probation for a designated class or classes, or for extension of the probation period for any individual probationary employee, but no probationary period may extend beyond twelve (12) months. The work and conduct of employees with a probationary status shall be subject to close scrutiny and evaluation. An employee retained beyond the end of the probationary period shall have permanent status in the position in which he was so retained so long as that position remains in the classified service if, but only if, the appointing authority files a written statement with the personnel board affirming the fact that the services of the employee have been found to be satisfactory.

Section 15. Absences: Hours of Work. Rules shall be adopted in the manner hereinbefore provided prescribing hours of work and the conditions and length of time for which leaves of absence with pay and leaves of absence without pay may be granted. These shall cover such matters as vacations, holidays, sick leaves, leaves for military service, and leaves granted so that the employee can seek election to public office.

Section 16. Lay-Off of Employees. Any employee may be separated from his position by being laid-off. Reduction in the number of employees shall be made in such class or classes as the appointing authority may designate; provided, however, within each class affected by such reduction employees shall be laid-off in the following order: (1) temporary employees who did not have permanent status in some other posi-

tion in the classified service at the time they were appointed to their present position; (2) probationary employees who did not have permanent status in some other position in the classified service at the time they were appointed to their present position; (3) other temporary employees; (4) other probationary employees; and (5) employees having permanent status in the position in the classified service.

Section 17. Dismissal, Demotion and Suspension of Employees. Any employee may be dismissed, suspended without pay or demoted by his appointing authority for, but not limited to, any violation of the provisions of this act or whenever the good of the service will be served thereby or the employee's work, performance, conduct on or off the job, or insubordinate attitude so warrants; provided, however, that no employee may be suspended without pay for more than 10 working days at any one time or for more than 10 working days in any one year; and provided further, that no employee shall be dismissed, suspended without pay or demoted for political considerations other than those enumerated in Section 21 hereof. Any person appointed to a position who has secured his certification therefor through fraud shall be removed by his appointing authority and shall not thereafter be eligible for examination for or appointment to any position except by unanimous permission of the board. The appointing authority shall promptly report to the board in writing the fact and extent of all disciplinary action taken by said appointing authority against employees holding positions in the classified service.

Section 18. Procedure for Protesting Certain Disciplinary Action. An employee shall have the right to protest any disciplinary action taken against him by his appointing authority; provided, however, an employee serving by temporary appointment and an employee having probationary status shall have no right to protest any such disciplinary action, unless such employee had permanent status in some other position at the time he was appointed to his present position. An employee desiring to protest any disciplinary action directed against him by his appointing authority shall file a protest in writing with the board and with his appointing authority within not less than 7 days and not more than 40 days of the date on which the disciplinary action was taken and request a hearing before the board. Within 7 to 21 days after receipt of the protest, his appointing authority shall file with the chairman of the board and mail to the employee by certified mail a statement specifying the charges against such employee on which the disciplinary action was based. Upon the filing of such charges, the said chairman shall call a meeting of the board to be held within 7 days after the filing of such charges to

hear such protest, and shall forthwith give notice by certified mail to the employee and his appointing authority of the time and place of such meeting. The board shall have the authority to continue the hearing from time to time as may be necessary. In preparing for and conducting such hearing, the chairman and secretary-treasurer of the board shall each have the power to administer oaths, and to subpoena and require the attendance of witnesses and the production of books, documents and accounts pertaining to the subject under investigation.

Subpoenas issued as herein provided shall be served (and the fees and allowances for the service thereof shall be the same) as is provided by law for the service of subpoena issued by the Circuit Court of Houston County, Alabama. Said fees and allowances in connection with the service of such subpoena issued at the request of the appointing authority or the board shall constitute reasonable and necessary expenses of the board. Such subpoena issued at the request of the employee shall be served as aforesaid but only after such employee has deposited sufficient security with such sheriff or other officer as will guarantee payment of such fees and allowances for such service. In the event any person is duly summoned to appear and testify or produce evidence, or both, before the board, and such person refuses to attend or testify or produce such evidence, or any of them, in obedience to such summons, the board shall have the right to invoke the aid of the circuit court at law. In such event, and upon proper showing by the board to the court, the court shall issue, or cause to be issued, an order or subpoena requiring such person to appear before the board and produce all evidence and give all testimony relating to the issue within his knowledge. Any person failing to obey any such summons by either of said officers of the board without good cause, to be determined by the court, may be punished by the court in the same method as is provided by law for contempt of the court and any person failing to obey such order or subpoena of the court, may be proceeded against by the court as is by law provided in the case of contempt of such court. In addition, any employee of Houston County who fails to obey any of such orders or subpoenas may be disciplined as provided in Section 17.

At the hearing the employee and his appointing authority shall each have the right to be represented by counsel. Such hearing shall be governed by rules of practice and procedure adopted by the board, and in conducting such hearing, the board shall not be bound by the technical rules of evidence. No informality of procedure in the conduct of such hearing shall invalidate any decision made by the board. At the conclusion of the hearing, the board shall render a decision (a) affirming the disciplinary action taken if it is reasonably satisfied from

the evidence offered at the hearing that the disciplinary action taken was lawful or was not too severe; or (b) reversing the action of the appointing authority if it is reasonably satisfied from such evidence that the disciplinary action taken was not lawful; or (c) modifying the disciplinary action taken and prescribing the proper penalty if it is reasonably satisfied from such evidence that the employee was subject to some disciplinary action, but that the penalty imposed was too severe. If the board's decision reduces the severity of the disciplinary action taken against the employee, the board, in its decision, may provide that the employee shall be reinstated with or without pay; provided, however, in the event any employee is so ordered to be reinstated with pay, such pay shall not exceed the amount that the employee as such earned during the probationary period next preceding the taking of the disciplinary action in question. A copy of the board's decision shall be filed with the clerk of the personnel board and such decision shall become effective immediately upon such filing, and it shall become final 7 days thereafter unless reversed or modified as hereinafter provided. The personnel board shall be represented by its attorney, or an attorney designated by the personnel board, and said attorney may perform such duties as the board may direct and require. Any compensation paid said attorney shall be paid as in Section 22 hereof.

Section 19. Appeal to the Court. Decisions of the board may be enforced in the court by mandamus, injunction, or other appropriate proceedings. The employee, the appointing authority, or the Houston County Commission may, within 21 days after the decision of the board is rendered, appeal to said court from any decision of the board affirming, imposing or refusing to affirm or impose dismissal or demotion as disciplinary action by filing notice of such appeal with the court and causing a copy of such notice to be served on the appointing authority and any member of the board. Upon the filing of such notice, the board shall file with the court a certified transcript of the proceeding had before it with respect to the appeal, and its decision in the matter. The appeal shall be heard at the earliest possible date by said court sitting without a jury on the issues made before the board and the trial in said court shall be de novo. No bond shall be required for such an appeal and the cost of such appeal shall be taxed against the unsuccessful party or as the judge may direct. At the conclusion of such hearing the court may affirm, reverse, or modify the board's decision, or remand the case for further proceedings before the board as the court in its discretion shall deem best. If the order of the court is that the employee shall be reinstated with pay, such pay shall not exceed the amount that the employee as such earned during the probationary pe-

riod next preceding the taking of the disciplinary action in question. An appeal may be taken from any judgment of said court to the Court of Appeals or Supreme Court as provided by law.

Section 20. Records to be Maintained by Board. The board shall maintain adequate records of its proceedings, of its own official acts, the examination record of every candidate, and the employment record of every employee.

Section 21. Political Activities Prohibited. No person holding a position in the classified service shall seek or attempt to use any political endorsement in connection with any appointment to a position in the classified service. No person holding a position in the classified service shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person or for any consideration. No employee holding a position in the classified service shall, directly or indirectly, pay or promise to pay any assessment, subscription, or contribution for any political organization or purpose, or solicit or take any part in soliciting any such assessment, subscription, or contribution. No person shall solicit any such assessment, subscription, or contribution of any employee holding a position in the classified service. No employee holding a position in the classified service shall be a candidate for nomination or election to any public office, or shall take any part in the management or affairs of any political party or in any political campaign, except to exercise his right as a citizen privately to express his opinion and to cast his vote, unless on authorized leave of absence for such purpose. Any person holding a position in the classified service who violates any provision of this section may be disciplined by dismissal, suspension without pay, or demotion as provided in Section 17 of this act. In addition, any person holding a position in the classified service who wilfully violates any provision of this section shall be guilty of a misdemeanor and upon conviction shall be punished as provided by Section 327 of Title 15 of the Code of Alabama of 1940.

Section 22. Expenses of Board. The governing body shall make necessary appropriations from the general fund to pay the reasonable and necessary expenses incurred by the board and its members in the administration of this act.

Section 23. Right of Governing Body. Nothing herein shall be construed as restricting the right of the governing body (1)

to refuse employment and prohibit the further service of any person who is a member of an organization which is opposed to the basic purpose of local self government; or (2) to increase or decrease proportionately the compensation of all employees; or (3) to use independent contractors for performance of work or the rendering of service by the county.

Section 24. Severability. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 25. Repealer. All laws or parts of laws which conflict with this act are repealed.

Section 26. Effective Date. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 10, 1973.

Time: 5:10 P.M.

Act No. 1050 H. 1792—Gafford, Doss, Cottingham, Merrill, Collins, Mims, Boles, Turnham, Adwell, Chesnut, Lang, Downing, McCorquodale, Headley, Snell Smith (P), Wise, Jones (F), Robertson, Jackson, O'Daniel, Porter, Waggoner, Boutwell, McMillan, Erdreich, Bowers, McBride, Stubbs, Hearn, Culver, Carnes, Callahan, Bank, Reid (R), Perloff, Therrell, Barron, Burgess, Hardin, Bassett, Benton, Smith (K), May, Barkett, Easters, Grey (D), Goodwin, Reynolds, Williams, Carter, King, Naramore, Parker, Crowe, Ellis, Stewart, Pruitt, Casey, Brassell, Reed (T)

AN ACT

To provide further for the compensation of the Clerk of the House and the Secretary of the Senate; providing for an annual salary for each of said officers and requiring that all fees received by them from the sale of bills introduced in the Legislature shall be paid into the State General Fund; to provide that the effective date of this act shall be January 1, 1974.

Be It Enacted by the Legislature of Alabama:

Section 1. The Clerk of the House and the Secretary of the Senate shall not retain any of the fees charged for the sale of copies of bills introduced in the Legislature and all such fees shall be deposited in the State Treasury to the credit of the General Fund and shall be used to cover the expenses of the Legislature.

Section 2. The Clerk of the House and the Secretary of the Senate shall each receive an annual salary of $33,600.00 per annum.

Section 3. The Clerk of the House and Secretary of the Senate shall disclose their personal income in the same manner and under the same statutes as apply to all other members of the legislative branch of government.

Section 4. All laws and parts of laws which conflict with this act are repealed.

Section 5. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 6. The provisions of this act shall become effective January 1, 1974.

Passed the Governor's veto to the contrary notwithstanding on September 13, 1973.

Act No. 1051 S. 214—O'Bannon, McLain, Fine, Givhan, Pelham, Wilson, Horne, Weaver, Dozier, Lybrand, Lindsey, Melton, Gilmore, Noonan, King, Shelby, Pierce, Jones, Cook, Bailes, Edington, Wilder, Baker and Malone

AN ACT

To propose an amendment to the Constitution of Alabama with respect to Article VI thereof which creates the Judicial Department of the State and prescribes the powers, duties and functions of all courts and the powers, duties, functions and qualifications of all judicial, prosecuting, and administrative officers; and for the repeal of Article VI of the Constitution of Alabama of 1901 as amended, and amendments 317 and 323 thereof.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama is proposed and shall become valid as a part of the Constitution when approved and proclaimed as prescribed by law.

CONSTITUTIONAL AMENDMENT

1. Article VI of the Constitution of Alabama of 1901 as amended, and amendments 317 and 323 thereof, are hereby repealed and in lieu thereof the following Article shall be adopted;

ARTICLE VI

THE JUDICIAL DEPARTMENT

6.01. Judicial Power.

(a) Except as otherwise provided by this Constitution, the judicial power of the state shall be vested exclusively in a unified judicial system which shall consist of a supreme court, a court of criminal appeals, a court of civil appeals, a trial court of general jurisdiction known as the circuit court, a trial court of limited jurisdiction known as the district court, a probate court **and such municipal courts as may be provided by law.**

(b) The legislature may create judicial officers with authority to issue warrants and may vest in administrative agencies established by law such judicial powers as may be reasonably necessary as an incident to the accomplishment of the purposes for which the agencies are created.

6.02. The Supreme Court.

(a) The supreme court shall be the highest court of the state and shall consist of one chief justice and such number of associate justices as may be prescribed by law.

(b) The supreme court shall have original jurisdiction (1) of cases and controversies as provided by this Constitution, (2) to issue such remedial writs or orders as may be necessary to give it general supervision and control of courts of inferior jurisdiction, and (3) to answer questions of state law certified by a court of the United States.

(c) The supreme court shall have such appellate jurisdiction as may be provided by law.

6.03. Courts of Appeals.

(a) The court of criminal appeals shall consist of such number of judges as may be provided by law and shall exercise appellate jurisdiction under such terms and conditions as shall be provided by law and by rules of the supreme court.

(b) The court of civil appeals shall consist of such number of judges as may be provided by law and shall exercise appellate jurisdiction under such terms and conditions as shall be provided by law and by rules of the supreme court.

(c) The court of criminal appeals and the court of civil appeals shall have no original jurisdiction except the power to

issue all writs necessary or appropriate in aid of appellate jurisdiction of the courts of appeals.

(d) **The court of criminal appeals shall have and exercise original jurisdiction in the issuance and determination of writs of quo warranto and mandamus in relation to matters in which said court has appellate jurisdiction. Said court shall have authority to issue writs of injunction, habeas corpus and such other remedial and original writs as are necessary to give it a general superintendence and control of jurisdiction inferior to it and in matters over which it has exclusive appellate jurisdiction; to punish for contempts by the infliction of a fine as high as one hundred dollars, and imprisonment not exceeding ten days, one or both, and to exercise such other powers as may be given to said court by law.**

6.04. Circuit Court.

(a) The state shall be divided into judicial circuits. For each circuit, there shall be one circuit court having such divisions and consisting of such number of judges as shall be provided by law.

(b) The circuit court shall exercise general jurisdiction in all cases except as may otherwise be provided by law. The circuit court may be authorized by law to review decisions of state administrative agencies and decisions of inferior courts. It shall have authority to issue such writs as may be necessary or appropriate to effectuate its powers, and shall have such other powers as may be provided by law.

6.05. District Court.

The district court shall be a court of limited jurisdiction and shall exercise uniform original jurisdiction in such cases, and within such geographical boundaries, as shall be prescribed by law, **provided that the district court shall hold court in each county seat and at such other places as prescribed by law. The district court shall have jurisdiction of all cases arising under ordinances of municipalities in which there is no municipal court and shall hold court in each incorporated municipality of a population of 1000 or more where there is no municipal court at places prescribed by law.**

6.06. Probate Court.

There shall be a probate court in each county which shall have such jurisdiction as may be provided by law.

6.065. **Municipal Courts.**

All municipal courts shall have uniform original jurisdiction limited to cases arising under municipal ordinances as prescribed by law. Judges of municipal courts shall be licensed to practice

law in the state and have such other qualifications as the legislature may prescribe. A municipal judge may serve as a judge of more than one municipal court. Expenses of municipal courts and compensation of municipal judges shall be paid in a manner prescribed by law notwithstanding the provisions of Section 6.09 of this Article. Municipal judges shall be appointed and vacancies filled by the governing body of the municipality, in accordance with uniform terms, conditions and procedures as may be provided by law, notwithstanding the provisions of Sections 6.13, 6.14 and 6.15 of this Article. The prohibited activities of Section 6.08(a) and (b) shall not be applicable to a judge of a municipal court.

The governing body of a municipality shall have the right to elect at any time to abolish the municipal court within its limits. If such election is exercised, the jurisdiction of the court abolished shall be transferred to the district court of the district in which the municipality is located. The governing body of a municipality, may, at its election, re-establish a municipal court after appropriate notice.

6.07. Qualifications of Judges.

Judges of the supreme court, courts of appeals, circuit court and district court shall be licensed to practice law in this state and have such other qualifications as the legislature may prescribe. Judges of the probate court shall have such qualifications as may be provided by law.

6.08. Prohibited Activities.

(a) No judge of any court of this state shall, during his continuance in office, engage in the practice of law or receive any remuneration for his judicial service except the salary and allowances authorized by law.

(b) No judge, except a judge of a probate court, shall seek or accept any non-judicial elective office, or hold any other office of public trust, excepting service in the military forces of the state or federal governments.

(c) The supreme court shall adopt rules of conduct and canons of ethics, not inconsistent with the provisions of this Constitution, for the judges of all courts of this state.

6.09. Judicial Compensation.

(a) A state judicial compensation commission is hereby created which shall recommend the salary and expense allowances to be paid from the state treasury for all the judges of this state except for judges of the probate court. The commission shall consist of five members; one shall be appointed by the governor, one by the president of the senate, one by the speaker of the house, and two by the governing body of the Alabama State Bar.

(b) Members of the judicial compensation commission shall serve for terms of four years. Any vacancy on the commission shall be filled in the same manner in which such position was originally filled. The legislature shall appropriate sufficient funds for the expenses of the commission.

(c) No member of the commission shall hold any other public office, or office in any political party, and no member of the commission shall be eligible for appointment to a state judicial office so long as he is a member of the commission and for two years thereafter.

(d) The commission may submit a report to the legislature at any time within the first five calendar days of any session. The recommendations of the commission shall become law unless rejected by a joint resolution or altered by act of the legislature at the session to which the report is submitted. The compensation of a judge shall not be diminished during his official term.

6.10. Administration.

The chief justice of the supreme court shall be the administrative head of the judicial system. He shall appoint an administrative director of courts and other needed personnel to assist him with his administrative tasks. The chief justice may assign appellate justices and judges to any appellate court for temporary service and trial judges, supernumerary justices and judges, and retired trial judges and retired appellate judges for temporary service in any court. Adequate and reasonable financing for the entire unified judicial system shall be provided. **Adequate and reasonable appropriations shall be made by the legislature for the entire unified judicial system, exclusive of probate courts and municipal courts. The legislature shall receive recommendations for appropriations for the trial courts from the administrative director of courts and for the appellate courts from each such court.**

6.11. Power to Make Rules.

The supreme court shall make and promulgate rules governing the administration of all courts and rules governing practice and procedure in all courts; **provided, however, that such rules shall not abridge, enlarge or modify the substantive right of any party nor affect the jurisdiction of circuit and district courts or venue of actions therein; and provided, further, that the right of trial by jury as at common law and declared by Section 11 of the Constitution of Alabama 1901 shall be preserved to the parties inviolate.** These rules may be changed by a general act of statewide application.

6.12. Number of Circuit and District Judges.

(a) The supreme court shall establish criteria for determining the number and boundaries of judicial circuits and

districts, and the number of judges needed in each circuit and district. If the supreme court finds that a need exists for increasing or decreasing the number of circuit or district judges, or for changing the boundaries of judicial circuits or districts, it shall, at the beginning of any session of the legislature, certify its findings and recommendations to the legislature.

(b) If a bill is introduced at any session of the legislature to increase or decrease the number of circuit or district judges, or to change the boundaries of any judicial circuit or district, the supreme court **must,** within three weeks, report to the legislature its recommendations on the proposed change. No change shall be made in the number of circuit or district judges, or the boundaries of any judicial circuit or district unless authorized by an act adopted after the recommendation of the supreme court on such proposal has been filed with the legislature.

(c) An act decreasing the number of circuit or district judges shall not affect the right of any judge to hold his office for his full term.

6.13. Election of Judges.

All judges shall be elected by vote of the electors within the territorial jurisdiction of their respective courts.

6.14. Vacancies in Judicial Office.

The office of a judge shall be vacant if he dies, resigns, retires, or is removed. Vacancies in any judicial office shall be filled by appointment by the governor; however, vacancies occurring in any judicial office in Jefferson County shall be filled as now provided by Amendments 83 and 110 to the Constitution of Alabama of 1901 and vacancies occurring in Shelby, Madison, Wilcox, Monroe, Conecuh, Clarke, Washington, Henry, Etowah, Walker, Tallapoosa, Pickens, Greene, Tuscaloosa, St. Clair County shall be filled as provided in the Constitution of 1901 with amendments now or hereafter adopted, or as may be otherwise established by a properly advertised and enacted local law. A judge, other than a probate judge, appointed to fill a vacancy, shall serve an initial term lasting until the first Monday after the second Tuesday in January following the next general election held after he has completed one year in office. At such election such judicial office shall be filled for a full term of office beginning at the end of the appointed term.

6.15. Tenure of Office.

(a) The term of office of each judge of a court of the judicial system of this state shall be six years.

(b) A law reducing the number of judges of the supreme court or of a court of appeals shall be without prejudice to the right of the judges affected to seek retention in office. The re-

duction shall become effective when a vacancy in the affected court occurs.

6.16. Retirement.

The legislature shall provide by law for the retirement of judges, including supernumerary judges, with such conditions, retirement benefits, and pensions for them and their dependents as it may prescribe. No person shall be elected or appointed to a judicial office after reaching the age of seventy years, provided that a judge over the age of seventy may be appointed to the office of supernumerary judge if he is not eligible to receive state judicial retirement benefits.

6.17. Judicial Inquiry Commission.

(a) A judicial inquiry commission is created consisting of seven members. The supreme court shall appoint one appellate justice or judge and the circuit judges' association shall appoint two judges of the circuit court as members of the commission. The governor shall appoint two persons who are not lawyers and the governing body of the Alabama State Bar shall appoint two members of the State Bar to serve as members of the commission. The commission shall select its own chairman. The terms of the members of the commission shall be four years. A vacancy on the commission shall be filled for a full term in the manner the original appointment was made.

(b) The commission shall be convened permanently with authority to conduct investigations, receive or initiate complaints concerning any judge of a court of the judicial system of this state. The commission shall file a complaint with the court of the judiciary in the event that a majority of the members of the commission decide that a reasonable basis exists, (1) to charge a judge with violation of any canon of judicial ethics, misconduct in office, failure to perform his duties, or (2) to charge that the judge is physically or mentally unable to perform his duties. All proceedings of the commission shall be confidential except the filing of a complaint with the court of the judiciary. The commission shall prosecute the complaints.

(c) The supreme court shall adopt rules governing the procedures of the commission.

(d) The commission shall have subpoena power and authority to appoint and direct its staff. Members of the commission who are not judges shall receive per diem compensation and necessary expenses; members who are judges shall receive necessary expenses only. The legislature shall appropriate funds for the operation of the commission.

6.18. Court of the Judiciary.

(a) The court of the judiciary is created consisting of one judge of an appellate court, who shall be selected by the supreme court and shall serve as chief judge of the court of the judiciary, two judges of the circuit court, who shall be selected by the circuit judges' association, and two members of the State Bar, who shall be selected by the governing body of the Alabama State Bar. The court shall be convened to hear complaints filed by the judicial inquiry commission. The court shall have authority, after notice and public hearing (1) to remove from office, suspend without pay, or censure a judge, or apply such other sanction as may be prescribed by law, for violation of a canon of judicial ethics, misconduct in office, failure to perform his duties, or (2) to suspend with or without pay, or to retire a judge who is physically or mentally unable to perform his duties.

(b) A judge aggrieved by a decision of the court of the judiciary may appeal to the supreme court. The supreme court shall review the record of the proceedings on the law and the facts.

(c) The supreme court shall adopt rules governing the procedures of the court of the judiciary.

(d) The court of the judiciary shall have power to issue subpoenas. The legislature shall provide by law for the expenses of the court.

6.19. Disqualification.

A judge shall be disqualified from acting as a judge, without loss of salary, while there is pending (1) an indictment or an information charging him in the United States with a crime punishable as a felony under a state or federal law, or (2) a complaint against him filed by the judicial inquiry commission with the court of the judiciary.

6.20. District Attorneys, Clerks, Court Revenue.

(a) A district attorney for each judicial circuit shall be elected by the qualified electors of those counties in such circuit. Such district attorney shall be licensed to practice law in this state and shall, at the time of his election and during his continuance in office, reside in his circuit. His term of office shall be for six years and he shall receive such compensation as provided by law. Vacancies in the office of district attorney and in his staff shall be filled as provided by law.

(b) Clerks of the circuit courts shall be elected by the qualified electors in each county for a term of six years. If the office of register in chancery continues to be provided by law then the clerk of the circuit court may also fill such office in a manner prescribed by law. Vacancies in the office of clerk of the circuit court shall be filled by the judge or judges of the cir-

cuit court who have jurisdiction over the county in which the office of clerk of the circuit court is located.

(c) Persons elected to the position of constable to assist the courts of the State as provided by law shall be subject to the same restrictions, rights and limitations as are specified in Section 280 of the Constitution of 1901, and no law shall prohibit the receipt of fees for the performance of official duties of said position while holding any other elected or appointed office.

(d) The revenue from fines, forfeitures and court costs produced **in district courts from the exercise of jurisdiction under** municipal ordinances shall be apportioned between the municipality and the state as shall be provided by law.

6.21. Continuation of Courts, District Attorneys, Clerks.

(a) All courts not herein authorized which are in existence at the time this Article becomes effective shall retain their powers for four years, unless sooner terminated by act of the legislature.

(b) All judges of the supreme court, court of criminal appeals, court of civil appeals and circuit courts shall retain their offices for the remainder of their respective terms.

(c) All justices of the supreme court in office when this Article becomes effective shall be justices of the supreme court. All judges of the court of criminal appeals shall be judges of the court of criminal appeals. All judges of the court of civil appeals shall be judges of the court of civil appeals. All circuit judges in office when this Article becomes effective shall be judges of the circuit courts. **All city judges who are in office when this Article becomes effective shall continue to be judges of their respective courts. All present city courts shall continue to function as provided by law for four years.**

(d) All judges of any court in this state, excepting the supreme court, court of criminal appeals, court of civil appeals, circuit courts, probate courts, and city courts, whose salaries or compensation are paid by their respective counties, who are qualified under the provisions of this Article, and who are holding office at the time of the approval of this Constitutional Amendment by the legislature and on the date of the establishment of the district court, shall be commissioned judges of the district court. Each such judge, accepting commission as a district judge, shall serve an initial term lasting until the first Monday after the second Tuesday in January following the next general election after he has completed three years in office as a district judge. At such election said judicial office shall be filled for a full term of office beginning at the end of the term for which such judge was commissioned.

(e) **In the event a city ceases to have a city or municipal court,** all judges of any city court in this state in cities which have more than one such judge at the time of approval of this Constitutional Amendment by the legislature and on the date of the establishment of the district court, if otherwise qualified under the provisions of this Article, shall be commissioned judges of the district court. Each such judge accepting commission as a district judge shall serve an initial term lasting until the first Monday after the second Tuesday in January following the next general election after he has completed three years in office as a district judge. At such election said judicial office shall be filled for a full term of office beginning at the end of the term for which such judge was commissioned.

(f) All district attorneys of any circuit of this state, who are qualified under the provisions of this Article, and who are holding office at the time of the approval of this Constitutional Amendment by the electors of the state, shall retain their offices for the remainder of their respective terms.

(g) All clerks of the circuit court of this state, who are holding office at the time of the approval of this Constitutional Amendment by the electors of the state, shall retain their offices for the remainder of their respective terms.

(h) Except to the extent inconsistent with the provisions of this Article, all provisions of law and rules of court in force on the effective date of this Article shall continue in effect until superseded in the manner authorized by the Constitution.

Section 2. An election upon the proposed Amendment is to be held on the first Tuesday after the expiration of three months from final adjournment of the current session of the legislature. The election shall be held in accordance with the provisions of Sections 284 and 285 of the Constitution of Alabama of 1901, as amended, and Chapter 1, Article 18, Title 17 of the Code of Alabama 1940.

Section 3. Notice of the election and of the proposed Amendment shall be published once a week for four successive weeks next preceding the day appointed for the election in a newspaper in each county of the state. If a newspaper is not published in the county, a copy of the notice shall be posted at the courthouse and in three other places in the county.

Constitutional Amendment.

Passed the Senate as amended August 21, 1973.

Passed the House as amended September 13, 1973.

Act No. 1052 S. 856—Lybrand

AN ACT

Proposing an amendment to the Constitution of Alabama relative to a special district ad valorem tax for public school purposes in each school district of Calhoun County except the school district comprising the City of Anniston.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama is proposed, to become effective as a part of the said Constitution when approved by a majority of the qualified electors voting thereon and upon proclamation by the Governor:

Special District School Tax in Calhoun County

In addition to any taxes now authorized or that may be hereafter authorized by the Constitution and laws of Alabama, each school district in Calhoun County, except the school district comprising the City of Anniston, shall have the power to levy and collect for public school purposes in such district an annual special ad valorem tax on the taxable properties in such district at a rate not exceeding in any one year five mills on each dollar of the value of the said properties as the same shall be assessed for state taxation; provided, that the said special ad valorem district tax shall not be levied in any such district for any year prior to the year for which the said tax if levied will become due and payable on October 1, 1978; provided further, that prior to the levy of any special tax authorized in this paragraph, there shall be submitted to the electors of the district in which the tax is proposed to be levied, at a special election called for that purpose in the said district, the question of whether the said tax or any part thereof shall be levied, the rate thereof, the time it is to continue (which shall not exceed thirty years), and the purpose thereof, and the said tax shall be authorized at such election by a majority of the qualified electors of the said district who vote at such election; provided further, that if a majority of the qualified electors of any of the said districts participating in the election on the ratification of this amendment shall vote for the ratification of this amendment, then the approval of this amendment as expressed by the vote in said district in favor of its ratification shall, of itself, authorize the levy and collection of the said special tax for public school purposes in that district for a period of thirty years commencing with the levy for the tax year for which taxes will become due and payable to the said district on October 1, 1978.

Elections on the question of the levy of a district tax under the provisions of this amendment may be held at any time and from time to time, provided, that if at any such election held

after the ratification of this amendment the proposal to levy the tax so submitted should be defeated then the proposal may not be submitted at another election held in the same district within six months from the last election held under this amendment. Each such election held after the ratification of this amendment shall be called and held, the results declared, and the tax levied and collected in the same manner as now or hereafter provided by law in the case of school district taxes authorized by Amendment III to the Constitution of Alabama, except that no county-wide tax shall be required as a condition precedent for a district tax under this amendment.

The funds arising from the district tax herein authorized to be levied shall be expended for the exclusive benefit of the school district in which such district tax is levied. Nothing in this amendment shall be deemed to prevent the consolidation of any two or more school districts in Calhoun County in accordance with the applicable provisions of general law.

Pursuant to the amendment to the Constitution of Alabama sometimes known as Amendment LXVIII (proposed by Act No. 587 adopted at the 1947 Regular Session of the Legislature of Alabama), there is currently being levied in each school district in Calhoun County a special district school tax at the same rate as is specified in the first paragraph of this amendment, but the last tax year for which the special tax provided for in the said Amendment LXVIII is authorized to be levied is the tax year for which taxes will become due and payable on October 1, 1977. It is intended by this amendment to make provision for the authorization of the continued levy in each school district in Calhoun County, except the school district comprising the City of Anniston, of a special district ad valorem school tax at the same rate as, but in lieu of, the tax authorized in the said Amendment LXVIII, to commence with the tax year next following the final tax year for which the tax provided for in the said Amendment No. LXVIII is authorized to be levied. It is not intended by this amendment to provide for or authorize an increase in the total rate of taxation for public school purposes in excess of that currently authorized to be levied in the several school districts in Calhoun County.

Section 2. An election upon the amendment proposed by this act is ordered to be held on the first Tuesday after the expiration of three months from the final adjournment of the current session of the Legislature. The election shall be held in accordance with the provisions of Sections 284 and 285 of the Constitution of Alabama, as amended, and Chapter 1, Article 18, Title 17 of the Code of Alabama of 1940, as amended.

Section 3. Notice of the election and of the proposed amendment shall be given by proclamation of the Governor,

which proclamation shall be published once a week for four successive weeks next preceding the day appointed for the election in a newspaper in each county of the state. In each county in which no newspaper is published, a copy of the notice shall be posted at each courthouse and post office therein.

Constitutional Amendment.

Passed the Senate August 21, 1973.

Passed the House September 13, 1973.

Act No. 1053 H. 1901—Dill

AN ACT

Relating to all counties having populations of not less than 500,000 according to the 1970 or any subsequent Federal decennial census; authorizing the Alabama Alcoholic Beverage Control Board to permit in such counties the handling and sale of "table wines" as therein defined and distinguished from "fortified wines" in manner similar to the procedure by which beer, malt or brewed beverages are now sold.

Be It Enacted by the Legislature of Alabama:

"Section 1. Definitions.—The following words or phrases, unless the context clearly indicates otherwise, shall have the meaning ascribed to them in this section.

"(a) 'Board' shall mean the 'Alcoholic Beverage Control Board.'

"(b) 'Malt' or 'Brewed Beverages,' means any beer, lager beer, ale, porter, or similar fermented malt liquor containing one-half of one percentum or more of alcohol by volume, by whatever name the same may be called.

"(c) 'Wine,' 'vinous beverages,' 'vinous liquors' means all beverages made from the fermentation of fresh fruits, berries or grapes, with or without added brandy, and produced in accordance with the laws and regulations of the United States, containing not more than twenty-four percent alcohol by volume, and includes all sparkling wines, carbonated wines, special natural wines, rectified wines, vermouths and like products, including restored or unrestored pure condensed juice.

"(d) 'Manufacturer' shall mean any person, association or corporation engaged in the producing, bottling, manufacturing, distilling, rectifying or compounding of liquor, alcohol and malt or brewed beverages or vinous beverages.

"(e) 'Municipality' shall mean any incorporated city or town of this state, and its policy jurisdiction.

"(f) 'Person' shall mean every natural person, association, or corporation. Whenever used in a clause prescribing or imposing a fine or imprisonment, or both, the term 'person' as applied to 'association' shall mean the partners or members thereof and as applied to 'corporation' shall mean the officers thereof, except as to incorporated clubs the term 'person' shall mean such individual or individuals who, under the by-laws of such clubs, shall have jurisdiction over the possession and sale of liquor therein.

"(g) 'Beer Wholesaler, Distributor or Jobber,' means and includes any person licensed by the board to engage in the sale and distribution within this state, at wholesale only, of malt or brewed beverages of an alcoholic content not in excess of four percent by weight and five percent by volume, to be sold only to licensed dealers as defined in this chapter.

"(h) 'Wine Wholesaler, Distributor or Jobber,' means and includes any person licensed by the board to engage in the sale and distribution of table wine (of alcoholic content fourteen percent or less) within counties in which this Act applies at wholesale only, to be sold for export or to licensees within this state authorized by their licenses to sell wine.

"(i) 'Wine retailer,' means and includes persons licensed by the board to engage in the retail sale of table wine to be consumed off the premises, and who do not possess a state liquor license.

"(j) 'Table wine' means any wine containing not more than fourteen percent alcohol by volume. 'Fortified wine' means any wine containing more than fourteen percent alcohol but not more than twenty-four percent alcohol by volume."

"Section 2. Section 24 of Chapter 1, Title 29, Code of Alabama, 1940, is amended by adding the following: In all counties having a population of not less than 500,000 according to the 1970 or any subsequent Federal Decennial Census, table wines as herein defined may be sold at retail by any licensed wine retailer, as herein defined for off premises consumption only. A wine wholesaler, as herein defined may sell to a wine retailer table wines that have been purchased from a licensed manufacturer as herein defined.

"Section 3. Retail Wine License.—In such counties as this Act applies the board shall have authority to issue a retail wine license for any retail outlet kept or operated by a wine retailer for the retail sale of table wines for off premise consumption in counties that this Act applies.

"Section 4. Application.—In such counties as this Act applies every applicant for a retail wine license shall file a

written application with the board, in such form as the board may prescribe, which shall be accompanied by a license fee of $100.00 and a filing fee of $10.00 together with the amount or amounts of the prescribed license fee or fees, if any levied by the counties in which this Act applies.

"**Section 5.** Issuance.—Upon receipt of the application, the proper fees, and upon being satisfied of the truth of the statements in the application and that the applicant is a person of good repute, the board shall grant and issue to the applicant a retail wine license entitling the applicant to purchase table wine from a licensed wine wholesaler and resell the same at retail for off premise consumption in counties that this Act applies.

Section 6. Wine wholesaler's license.—The Board shall issue to any reputable person who applies therefor, pays the license fee hereinafter prescribed, a wine wholesaler's license which will authorize the licensee to import and receive shipments of table wine from outside the state from licensed manufacturers, to purchase table wine from licensed manufacturers or bottlers of wine within the state, and to sell table wine to licensed wine retailers in counties in which this Act applies. The application for a wholesale wine license shall be in such form as the board may prescribe and shall be accompanied by a license fee of $500.00 and a $10.00 filing fee, together with the amount or amounts of the prescribed license fee or fees, if any, levied by the counties in which this Act applies. In addition the applicant shall file with his original application a bond in the penal sum of not less than $1000.00 nor more than $10,000.00 conditioned upon the payment of the taxes to be collected by the wine wholesaler and remitted to the board.

In counties in which this Act applies licensed beer wholesalers may become licensed wine wholesalers upon filing application with the board and paying the filing fee, the appropriate license fee or fees, and the bond herein required.

Section 7. Manufacturer's License.—Every manufacturer, distiller, winery, supplier, producer or bottler desiring to do business in this state by selling table wines to wholesale table wine distributors in counties in which this Act applies shall register with the Board prior to making any sales in Alabama. Each such manufacturer, distiller, winery, supplier, producer or bottler shall pay to the Board a filing fee of $250.00.

Each such manufacturer, distiller, winery, supplier, producer or bottler shall be required to file with the Board, prior to making any sales in Alabama a list of its labels to be sold in counties in which this Act applies and shall file with the

Board their Federal Certificate of label approvals or its certificates of exemption as required by the U. S. Treasury Department. All table wines whose labels have not been registered as herein provided for shall be considered contraband and may be seized by the Board, or its agents, or any peace officer of the State of Alabama without a warrant and said goods shall be delivered to the Board and disposed of as provided by law.

All such manufacturers, distillers, wineries, suppliers, producers or bottlers shall be required to mail to the Board prior to the tenth day of the month a consolidated report of all shipments of table wine made to each wine wholesaler during the preceding month. Such reports shall be certified as true and correct and shall be a complete listing of all items shipped, an invoice setting out the quantities purchased and the price quotation showing at what price such wines were sold, the size, type, brand label and point of destination and such other information as the board may prescribe.

Section 8. License Renewal.—The wine retail, wine wholesale and manufacturer's license herein provided for shall be required to be renewed annually and shall be reissued upon payment to the Board of the appropriate license fee or fees unless the Board has good cause for not reissuing the license. Approval of the local governing body is not necessary for the renewal of an existing license. All license fees paid other than those levied by the counties in which this Act applies shall be retained by the Board as part of its net profit from operation and shall be distributed as such.

Section 9. Suspension or revocation of licenses.—The Board shall have full and final authority as to the suspension and revocation of any license issued hereunder. In addition thereto the Board shall have the authority, in the case of a wine retailer, to invoke a penalty of not less than $250.00 nor more than $500.00 for one or more of the following violations of this Act:

(a) selling wine other than during the legal hours of sale; or

(b) selling wine to a minor.

Section 10. Unlawful Acts.—In addition to the unlawful acts set forth in Section 36 of Chapter 1, Title 29, Code of Alabama 1940, it shall be unlawful for table wine to be sold except between the hours of 9:00 AM and 9:00 PM, Monday through Saturday. No table wine shall be sold on any Sunday, primary election day, general election day or municipal election day. Table wine may not be displayed by a wine retailer other than during the legal hours of sale and if a wine retailer's establishment is open for business other than during the legal hours

of sale his wine display must be under lock and key and hidden from public view by whatever means are necessary.

Section 11. Advertising.—In the counties in which this Act applies, table wines may be advertised in the same manner and through the same media that beer is now permitted to be advertised.

Section 12. Tax on table wine.—In counties in which this Act applies the tax on table wines shall be the same as levied by Sections 70(1), 70(2), 70(3) and 70(4) of Title 29, Code of Alabama, 1940, and shall be computed as follows: The wine wholesaler shall add to his invoice price to the wine retailer the 35% tax as provided by law and shall collect said tax from the wine retailer who in return shall pass the tax on to the purchaser, it being the purpose and intent of this provision that the tax levied is in fact a levy on the consumer. It shall be unlawful for any wine wholesaler who is required to pay the tax in the first instance to fail or refuse to add to the sales price and collect from the wine retailer the required amount of tax.

The tax on table wine shall be collected by a monthly return which shall be filed by the wine wholesaler, on a form prescribed by the board showing sales for the preceding month and the tax due thereon. The taxes due shall be remitted to the board along with the return. Such taxes paid to the board shall be considered as part of its net profits from operation and shall be distributed by the board. The wine wholesaler or distributor who pays the tax in the first instance is acting as an agent of the state for the collection and payment of the tax and as such may not be required to collect a tax for any other level of government but nothing herein shall be construed to mean that taxes or licensing fees cannot be levied by municipalities in the counties in which this Act applies.

The Board shall have the authority to examine the books and records or any wine wholesaler or retailer to determine the accuracy of any return required to be filed with the board.

Section 13. Stamps.—In counties in which this Act applies the wine wholesaler must affix a distributor's stamp, as a means of identification, to all table wines sold to a wine retailer. Such stamps may be purchased at cost from the board by any licensed wine wholesaler.

Section 14. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 15. It is the intention of this Act to authorize the sale of table wines, as herein defined, by a licensed wine re-

tailer in counties in which this Act applies and to permit the purchase and resale by licensed wine wholesalers in such counties where this Act applies, to provide for the licensing of wine retailers, wine wholesalers and manufacturer's; to provide for the collection, reporting and remitting of taxes now imposed by law. The provisions of Chapter 1, Article 29, Code of Alabama, 1940, not in conflict with this Act shall apply. However, where a conflict exists the provisions of this Act shall prevail.

Section 16. This Act shall become effective upon its passsage and approval by the Governor or upon its otherwise becoming a law, however, no retail sale by a wine retailer shall be made until after September 30, 1973, or until sixty (60) days from the date that this Act becomes law, whichever is later.

Passed, the Governor's veto to the contrary notwithstanding on September 13, 1973.

Act No. 1054 H. 2173—Culver, Parker

AN ACT

Relating to all counties having populations of not less than 115,000 nor more than 130,000 according to the 1970 or any subsequent Federal decennial census; authorizing the Alabama Alcoholic Beverage Control Board to permit in such counties the handling and sale of "table wines" as therein defined and distinguished from "fortified wines" in manner similar to the procedure by which beer, malt or brewed beverages are now sold.

Be It Enacted by the Legislature of Alabama:

"**Section 1.** Definitions.—The following words or phrases unless the context clearly indicates otherwise, shall have the meaning ascribed to them in this section.

"(a) 'Board' shall mean the 'Alcoholic Beverage Control Board.'

"(b) 'Malt' or 'Brewed Beverages,' means any beer, lager beer, ale, porter, or similar fermented malt liquor containing one-half of one percentum or more of alcohol by volume, by whatever name the same may be called.

"(c) 'Wine,' 'vinous beverages,' 'vinous liquors' means all beverages made from the fermentation of fresh fruits, berries or grapes, with or without added brandy, and produced in accordance with the laws and regulations of the United States, containing not more than twenty-four percent alcohol by volume, and includes all sparkling wines, carbonated wines, special

natural wines, rectified wines, vermouths and like products, including restored or unrestored pure condensed juice.

"(d) 'Manufacturer' shall mean any person, association or corporation engaged in the producing, bottling, manufacturing, distilling, rectifying or compounding of liquor, alcohol and malt or brewed beverages or vinous beverages.

"(e) 'Municipality' shall mean any incorporated city or town of this state, and its policy jurisdiction.

"(f) 'Person' shall mean every natural person, association, or corporation. Whenever used in a clause prescribing or imposing a fine or imprisonment, or both, the term 'person' as applied to 'association' shall mean the partners or members thereof and as applied to 'corporation' shall mean the officers thereof, except as to incorporated clubs the term 'person' shall mean such individual or individuals who, under the by-laws of such clubs, shall have jurisdiction over the possession and sale of liquor therein.

"(g) 'Beer Wholesaler, Distributor or Jobber,' means and includes any person licensed by the board to engage in the sale and distribution within this state, at wholesale only, of malt or brewed beverages of an alcoholic content not in excess of four percent by weight and five percent by volume, to be sold only to licensed dealers as defined in this chapter.

"(h) 'Wine Wholesaler, Distributor or Jobber,' means and includes any person licensed by the board to engage in the sale and distribution of table wine (of alcoholic content fourteen percent or less) within counties in which this Act applies at wholesale only, to be sold for export or to licensees within this state authorized by their licenses to sell wine.

"(i) 'Wine retailer,' means and includes persons licensed by the board to engage in the retail sale of table wine to be consumed off the premises, and who do not possess a state liquor license.

"(j) 'Table wine' means any wine containing not more than fourteen percent alcohol by volume. 'Fortified wine' means any wine containing more than fourteen percent alcohol but not more than twenty-four percent alcohol by volume."

"**Section 2.** Section 24 of Chapter 1, Title 29, Code of Alabama, 1940, is amended by adding the following: In all counties having a population of not less than 115,000 nor more than 130,000 according to the 1970 or any subsequent Federal Decennial Census, table wines as herein defined may be sold at retail by any licensed wine retailer, as herein defined for off premises consumption only. A wine wholesaler, as herein defined may sell to

a wine retailer table wines that have been purchased from a licensed manufacturer as herein defined.

"**Section 3.** Retail Wine License.—In such counties as this Act applies the board shall have authority to issue a retail wine license for any retail outlet kept or operated by a wine retailer for the retail sale of table wines for off premise consumption in counties that this Act applies.

"**Section 4. Application.**—In such counties as this Act applies every applicant for a retail wine license shall file a written application with the board, in such form as the board may prescribe, which shall be accompanied by a license fee of $100.00 and a filing fee of $10.00 together with the amount or amounts of the prescribed license fee or fees, if any levied by the counties in which this Act applies.

"**Section 5.** Issuance.—Upon receipt of the application, the proper fees, and upon being satisfied of the truth of the statements in the application and that the applicant is a person of good repute, the board shall grant and issue to the applicant a retail wine license entitling the applicant to purchase table wine from a licensed wine wholesaler and resell the same at retail for off premise consumption in counties that this Act applies.

Section 6. Wine wholesaler's license.—The Board shall issue to any reputable person who applies therefor, pays the license fee hereinafter prescribed, a wine wholesaler's license which will authorize the licensee to import and receive shipments of table wine from outside the state from licensed manufacturers, to purchase table wine from licensed manufacturers or bottlers of wine within the state, and to sell table wine to licensed wine retailers in counties in which this Act applies. The application for a wholesale wine license shall be in such form as the board may prescribe and shall be accompanied by a license fee of $500.00 and a $10.00 filing fee, together with the amount or amounts of the prescribed license fee or fees, if any, levied by the counties in which this Act applies. In addition the applicant shall file with his original application a bond in the penal sum of not less than $1000.00 nor more than $10,000.00 conditioned upon the payment of the taxes to be collected by the wine wholesaler and remitted to the board.

In counties in which this Act applies licensed beer wholesalers may become licensed wine wholesalers upon filing application with the board and paying the filing fee, the appropriate license fee or fees, and the bond herein required.

Section 7. Manufacturer's License.—Every manufacturer, distiller, winery, supplier, producer or bottler desiring to do

business in this state by selling table wines to wholesale table wine distributors in counties in which this Act applies shall register with the Board prior to making any sales in Alabama. Each such manufacturer, distiller, winery, supplier, producer or bottler shall pay to the Board a filing fee of $250.00.

Each such manufacturer, distiller, winery, supplier, producer or bottler shall be required to file with the Board, prior to making any sales in Alabama a list of its labels to be sold in counties in which this Act applies and shall file with the Board their Federal Certificate of label approvals or its certificates of exemption as required by the U. S. Treasury Department. All table wines whose labels have not been registered as herein provided for shall be considered contraband and may be seized by the Board, or its agents, or any peace officer of the State of Alabama without a warrant and said goods shall be delivered to the Board and disposed of as provided by law.

All such manufacturers, distillers, wineries, suppliers, producers or bottlers shall be required to mail to the Board prior to the tenth day of the month a consolidated report of all shipments of table wine made to each wine wholesaler during the preceding month. Such reports shall be certified as true and correct and shall be a complete listing of all items shipped, an invoice setting out the quantities purchased and the price quotation showing at what price such wines were sold, the size, type, brand label and point of destination and such other information as the board may prescribe.

Section 8. License Renewal.—The wine retail, wine wholesale and manufacturer's license herein provided for shall be required to be renewed annually and shall be reissued upon payment to the Board of the appropriate license fee or fees unless the Board has good cause for not reissuing the license. Approval of the local governing body is not necessary for the renewal of an existing license. All license fees paid other than those levied by the counties in which this Act applies shall be retained by the Board as part of its net profit from operation and shall be distributed as such.

Section 9. Suspension or revocation of licenses.—The Board shall have full and final authority as to the suspension and revocation of any license issued hereunder. In addition thereto the Board shall have the authority, in the case of a wine retailer, to invoke a penalty of not less than $250.00 nor more than $500.00 for one or more of the following violations of this Act:

(a) selling wine other than during the legal hours of sale; or

(b) selling wine to a minor.

Section 10. Unlawful Acts.—In addition to the unlawful acts set forth in Section 36 of Chapter 1, Title 29, Code of Alabama 1940, it shall be unlawful for table wine to be sold except between the hours of 9:00 AM and 9:00 PM, Monday through Saturday. No table wine shall be sold on any Sunday, primary election day, general election day or municipal election day. Table wine may not be displayed by a wine retailer other than during the legal hours of sale and if a wine retailer's establishment is open for business other than during the legal hours of sale his wine display must be under lock and key and hidden from public view by whatever means are necessary.

Section 11. Advertising.—In the counties in which this Act applies, table wines may be advertised in the same manner and through the same media that beer is now permitted to be advertised.

Section 12. Tax on table wine.—In counties in which this Act applies the tax on table wines shall be the same as levied by Sections 70(1), 70(2), 70(3) and 70(4) of Title 29, Code of Alabama, 1940, and shall be computed as follows: The wine wholesaler shall add to his invoice price to the wine retailer the 35% tax as provided by law and shall collect said tax from the wine retailer who in return shall pass the tax on to the purchaser, it being the purpose and intent of this provision that the tax levied is in fact a levy on the consumer. It shall be unlawful for any wine wholesaler who is required to pay the tax in the first instance to fail or refuse to add to the sales price and collect from the wine retailer the required amount of tax.

The tax on table wine shall be collected by a monthly return which shall be filed by the wine wholesaler, on a form prescribed by the board showing sales for the preceding month and the tax due thereon. The taxes due shall be remitted to the board along with the return. Such taxes paid to the board shall be considered as part of its net profits from operation and shall be distributed by the board. The wine wholesaler or distributor who pays the tax in the first instance is acting as an agent of the state for the collection and payment of the tax and as such may not be required to collect a tax for any other level of government but nothing herein shall be construed to mean that taxes or licensing fees cannot be levied by municipalities in the counties in which this Act applies.

The Board shall have the authority to examine the books and records or any wine wholesaler or retailer to determine the accuracy of any return required to be filed with the board.

Section 13. Stamps.—In counties in which this Act applies the wine wholesaler must affix a distributor's stamp, as a means

of identification, to all table wines sold to a wine retailer. Such stamps may be purchased at cost from the board by any licensed wine wholesaler.

Section 14. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 15. It is the intention of this Act to authorize the sale of table wines, as herein defined, by a licensed wine retailer in counties in which this Act applies and to permit the purchase and resale by licensed wine wholesalers in such counties where this Act applies, to provide for the licensing of wine retailers, wine wholesalers and manufacturer's; to provide for the collection, reporting and remitting of taxes now imposed by law. The provisions of Chapter 1, Article 29, Code of Alabama, 1940, not in conflict with this Act shall apply. However, where a conflict exists the provisions of this Act shall prevail.

Section 16. This Act shall become effective upon its passsage and approval by the Governor or upon its otherwise becoming a law, however, no retail sale by a wine retailer shall be made until after September 30, 1973, or until sixty (60) days from the date that this Act becomes law, whichever is later.

Passed, the Governor's veto to the contrary notwithstanding on September 13, 1973.

Act No. 1055 H. 1463—Jones (F)

AN ACT

Relating to counties having populations of not less than 150,000 nor more than 180,000; to allow all Alabama Beverage Control Board licensees to sell wines containing not more than fourteen percent alcohol by volume from bulk containers and prescribing penalties.

Be It Enacted by the Legislature of Alabama:

Section 1. In counties having populations of not less than 150,000 nor more than 180,000 all retail licensees of the Alcoholic Beverage Control Board shall be permitted to desperse and sell wine containing not more than 14% alcohol by volume from bulk containers of any size. Such licensees may purchase such wine directly from any producer, wholesale or distributor of such wine so long as all federal, state, county and municipal taxes thereon are paid and the Alcoholic Beverage Control Board is paid an amount equal to the profit that the State

would make on such wines if sold through State Alcoholic Beverage Control Board Stores.

Section 2. The State Alcoholic Beverage Control Board may make such regulations as are necessary to carry out the provisions of this act, provided however, that the Board may not make any regulations which sets the retail price of such wines as are the subject of this act.

Section 3. This Act shall apply to holders of on premise ABC licenses only.

Section 4. Any person violating the provisions of this act shall be guilty of a misdemeanor and shall be punished under the provisions of Title 29, Section 99, Code of Alabama 1940.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Passed, the Governor's veto to the contrary notwithstanding on September 13, 1973.

Act No. 1056 S. 1—Bailes

AN ACT

To establish a state ethics commission and to provide a state ethics law, which: requires disclosures of certain economic interests and certain family connections to be filed by state officials and certain state employees and by persons having certain business dealings with the state or its agencies or instrumentalities, proscribes certain practices by state officials and employees which conflict with the proper safeguarding of the public trust; requires the registration of persons engaged in activities designed to influence legislation and the making of certain reports by such persons and otherwise regulates such activities of such persons; prescribes penalties; provides for the enforcement of this act; prescribes the powers and duties of the ethics commission; and authorizes the commission to prescribe, promulgate and enforce rules, consonant with this law, to govern activities and disclosures by county and municipal officials needed to safequard the public trust in such governmental units.

Be It Enacted by the Legislature of Alabama:

Section 1.

(a) It is essential to the proper operation of democratic government that public officials be independent and impartial; that governmental decisions and policy be made in the proper channels of the governmental structure; that public office not be used for private gain other than the renumeration provided by law; and that there be public confidence in the inte ty of

government. The attainment of one or more of these ends is impaired whenever there exists a conflict between the private interests of an elected official or a government employee and his duties as such. The public interest, therefore, requires that the law protect against such conflicts of interest and establish appropriate ethical standards with respect to the conduct of elected officials and government employees in situations where conflicts exist.

(b) It is also essential to the proper operation of government that those best qualified be encouraged to serve the government. Accordingly, legal safeguards against conflicts of interest must be so designed as not unnecessarily or unreasonably to impede the recruitment and retention by the government of those men and women who are best qualified to serve it. An essential principle underlying the staffing of our government structure is that its elected officials and employees should not be denied the opportunity, available to all other citizens, to acquire and retain private economic and other interests, except where conflicts with the responsibility of such elected officials and employees to the public cannot be avoided.

(c) Also, the legislature hereby declares that the operation of responsible democratic government requires that the fullest opportunity be afforded to the people to petition their government for the redress of grievances and to express freely to individual member of the legislature, to committees of the legislature, and to officials of the Executive branch, their opinions on legislation, on pending executive actions, and on current issues; and that, to preserve and maintain the integrity of the legislative and administrative processes, it is necessary that the identity, expenditures and activities of certain persons who engage in efforts to persuade members of the legislature or the executive branch to take specific actions, either by direct communication to such officials, or by solicitation of others to engage in such efforts, be publicly and regularly disclosed. The provisions of this act shall be liberally construed to promote complete disclosure of all such information and so as to assure that the public interest will be fully protected.

(d) It is the policy and purpose of this Act to implement these objectives of protecting the integrity of the government of this state and of facilitating the recruitment and retention of qualified personnel by prescribing essential restrictions against conflicts of interest in state government without creating unnecessary barriers to public service.

Section 2. Whenever used in this Act, the following words and terms shall have the following respective meaning unless the context clearly indicates otherwise:

(a) "Business" means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, and any other legal entity.

(b) "Business with which he is associated" means any business of which the person or a member of his family is a director, officer, owner, partner, employee, or holder of stock worth $1,000 or more at fair market value, and any business which is a client of the person.

(c) "Candidate for public office" means any person who has filed a declaration of candidacy or a petition to appear on the ballot for election as a public official, and any person who who has been nominated for appointment to serve as a public official.

(d) "Commission" means the State Ethics Commission.

(e) "Legislative employee" means any person employed by the legislature or by any of its committees and any person employed by a legislator from funds provided by the state, who receives compensation of $12,000 or more per year;

(f) "Lobbying" means the practice of promoting or opposing the introduction or enactment of legislation before the Legislature or the legislative committees or the members thereof, and shall also include the practice of promoting or opposing executive approval of legislation.

(g) "Lobbyist" means all persons who seek to encourage the passage, defeat, or modification of any legislation, except members of the Alabama Legislature or any person who, on an isolated basis and without the intent to continue beyond a single day during a session of the Alabama Legislature, merely appears before a committee or committees of the Legislature in his individual capacity, or on behalf of a corporation, partnership, association or other business entity, with which such person is regularly associated as an employee, officer, member or partner without receiving additional salary or compensation other than reasonable and ordinary travel expenses, to express support of or opposition to any legislation, and who shall so declare to a member, members, or committee of the legislature with whom he discusses any proposed legislation.

(h) "Reporting Year" means the reporting official's or employee's fiscal tax year as it applies to his United States Income Tax Return(s).

(i) "State Employee" means any employee of the State earning from the State a total annual salary in excess of $12,000.

(j) "State Employee's Family" means the employee's spouse and dependents.

(k) "State Official" means any elected official of the legislative, judicial or executive branch of state government, and any person appointed under Alabama Law to an office in either branch where, in the conduct of such office, administrative and discretionary powers attend the appoinment. Also, this definition shall mean an appointed member of any commission or committee which has administrative or policy-making control of any governmental function, but shall not mean members of commissions or committees functioning solely for advisory or research purposes.

(1) Any member of the U.S. House of Representatives and the U. S. Senate, together with their families, their secretaries, Adminstrative Assistants, and any other associated employees, also their partners or any person that they may be associated with in any business, partnership, or corporation.

(m) "State Official's Family" means the official's spouse and dependents.

Section 3. No state official or employee shall use an official position or office to obtain financial gain for himself, or his family, or any business with which he or a member of his family is associated unless such use and gain are specifically authorized by law.

Section 4. No person shall offer to or give to a state official or employee or his family, and none of the aforenamed shall solicit or receive anything of value, including a gift, favor or service or a promise of future employment, based on any understanding that the vote, official actions, decisions, or judgement of the intended recipient or family member would be influenced thereby, or where it could reasonably be inferred that the thing of value would influence such person in the discharge of his duties. Expenses associated with social occasions afforded state officials and employees when such expenses are in amounts of less than $100 per year per state official or employee entertained shall not be deemed a thing of value within the meaning of this section or prohibited hereby.

Section 5. No state official or employee or his family shall solicit or receive any money in addition to that received by the official or employee in his official capacity for advice or assistance on matters concerning the legislature, an executive department, or any state regulatory board, commission or other body. Further, no state official or employee or business with which he is associated shall receive any fee for professional services provided to the state or any of its agencies or to any

county or city or instrumentality thereof in the political subdivision or district from which he is elected or in which he resides.

Section 6. No state official or employee shall use or disclose confidential information gained in the course of or by reason of his position or employment in any way that could result in financial gain other than his regular salary as such state officer for himself, his family, or for any other person.

Section 7. Unless expressly provided otherwise by law no person shall serve as a member or employee of a state, county or city regulatory board or commission or other body that regulates any business with which he is associated.

Section 8. If a state official or employee, or member of his family, or a business with which any of them is associated, shall for a fee represent a client or constituent before any quasi-judicial board or commission, state regulatory agency or executive department or agency, notice of such representation must be given within five days after the first day of such appearance to the State Ethics Commission in the manner prescribed by the commission.

Section 9. No state official or employee, or a member of his family, and no business with which any of them is associated shall enter into any contract with any state agency which is to be paid in whole or in part out of state funds unless the contract has been awarded through a process of public notice and competitive bidding and a copy of such contract is filed with the commission. Provided, however, all such contract awards shall be made as a result of original bid takings and no awards from negotiations after bidding shall be allowed.

Section 10. No person shall offer or give to a member or employee of a state agency, board or commission that regulates a business with which such person is associated, and no member or employee of a state regulatory agency, board or commission shall solicit or accept from any such person anything of value, including a promise of future employment or a favor or service, while the member or employee is associated with the regulatory agency, board or commission.

Section 11. No former state official or employee shall serve for a fee as a lobbyist or represent clients before the body of which he is a former member or employee for a period of five years after he leaves such membership or employment, unless notice of such representation is given within five days after such appearance to the State Ethics Commission in the manner prescribed by the commission; furthermore, no state

official or employee shall enter into a contract to provide goods or services or materials to the state or any of its agencies unless within five days of entering into said contract notice is filed with the commission of his previous status as a state official or employee and a copy of the contract provided.

Section 12. (a) No person elected or employed to serve as a state official or employee shall be allowed to take the oath of office or enter upon his duties unless he has previously filed a statement of economic interests in accordance with the provisions of this act at the office of the State Ethics Commission. Such statement shall be made on a form provided by the commission and shall contain the following information on the person making such filing:

1. Name, residential address, business address; name and address of living spouse, minor and dependent children, adult children, parents, brothers, and sisters, and to the best of his knowledge the principal occupation of each of these persons and their spouses.

2. A list of occupation(s) to which one-third or more of working time was given during previous reporting year by the filing official or employee and spouse;

3. A listing of total combined family income of the state official or employee during the most recent reporting year as to income from salaries, fees, dividends, profits, commissions, and other compensation from any business doing business in Alabama and listing the names of each business and the income derived from such business in the following categorical amounts: less than $1,000; at least $1,000 and less than $10,000; $10,000 or more. Further, the person reporting shall name any business or subsidiary thereof in which he or his spouse or dependents, jointly or severally, own one-tenth or more of the stock or in which he or his spouse serves as an officer, director, trustee, or consultant where such service provides income of more than $1,000 for the reporting period.

4. If the filing state official or employee, or his spouse, has engaged in a business during the last reporting year which provides legal, accounting, medical, or health related, real estate, banking, insurance, educational, farming, engineering, architectural management, or other professional services or consultations, then the filing party shall report the number of clients of such business in each of the following categories and the income in categorical amounts received during the reporting period from the combined number of clients in each category: electric utilities, gas utilities, telephone utilities, water utilities, cable television companies, intrastate transportation companies, interstate transportation companies, pipe line

companies, oil and/or gas exploration companies, oil and gas retail companies, banks, savings and loan associations, loan and/or finance companies, manufacturing firms, mining companies, life insurance companies, casualty insurance companies, other insurance companies, retail companies, beer, wine, and/or liquor companies or distributors, trade associations, professional associations, governmental associations, associations of public employees or public officials, counties and any other businesses or associations that the commission may deem appropriate. Amounts received from combined clients in each category shall be reported as: less than $1,000; more than $1,000 but less than $10,000; $10,000 or above.

5. If retainers are in existence or contracted for in any of the above categories of clients, a listing of the categories along with the anticipated income to be expected annually from each category of clients shall be shown in the following amounts: less than $1,250; $1,250 or more.

6. If real estate that is held for investment or is revenue producing is held by a state official, his spouse or dependents, then a listing thereof by the following categories of fair market value: under $50,000; at least $50,000 but less than $250,000; $250,000 or more; and the following categories of annual gross rent and lease income on real estate: less than $10,000; at least $10,000 and less than $50,000; $50,000 or more. Furthermore, if a state official or a business in which he is associated receives rent or lease income from any governmental agency in Alabama, specific details of the lease or rent agreement shall be filed with the commission.

7. (a) A listing of indebtedness to businesses operating in Alabama showing types and number of each as follows: banks, savings and loan associations, insurance companies, mortgage firms, and stock brokers (The commission shall add additional categories as it deems necessary); and the indebtedness to combined organizations in each category in amounts as follows: less than $25,000; $25,000 but less than $50,000; $50,000 but less than $100,000; $100,000 or more. Indebtedness associated with the homestead of the person filing is exempted from this disclosure requirement. Filing required by subsections of this section shall reflect information and facts in existence at the end of the reporting year. In the event that said information required herein is not filed as required the commission shall notify the public official or employee concerned as to his failure to so file and the public official shall have 10 days to file said report after receipt of said notification.

(b) After the original filing of the above prescribed statement(s) each person shall make additional subsequent

filing within 90 days after the termination of each succeeding reporting year. Filings required by subsections 5, 6 and 7 of this section shall reflect information and facts in existence at the end of the reporting year.

Section 13. Within 10 days after he becomes a candidate for state office, each candidate shall file a statement of economic interests as prescribed by the commission and in keeping with this act at the office of the State Ethics Commission.

(a) Each official who receives a declaration of candidacy or petition to appear on the ballot for election as a state official and each official who nominates a person to serve as a state official shall, within five days of such receipt or nomination, notify the State Ethics Commission of the name of each new candidate for state office as defined in this act, and the date on which such person became a candidate.

(b) The State Ethics Commission shall notify such official and, in the case of candidates for appointive office, the clerk or secretary of the body that will approve or disapprove the nomination, of the name of each candidate who files a statement of economic interests at the office of the commission and of the date on which such statement was filed.

(c) Other provision of the law notwithstanding, if a candidate for elective public office does not submit a statement of economic interests in accordance with the requirements of this act within ten days after he becomes a candidate, his name shall not appear on the ballot.

(d) If a person who becomes a candidate for appointive public office by nomination fails to file a statement of economic interests in accordance with the provisions of this act within ten days after such nomination, the nomination shall not be approved or ratified until at least ten days after he has filed such statement of economic interests.

Section 14. Members of the press who cover the State Legislature or state government in any way, either as a member of an editorial staff or through direct reporting, prior to being admitted to galleries, press rooms, committee meetings, any space set aside for use of the press, the floor of the legislature, or press conferences by a member of the legislature or a government official, shall file a statement of economic interest in accordance with the provisions of this Act at the office of the State ethics commission and shall have beeen approved by the State ethics commission for a special press pass and shall be subject to the provisions of the Act. The statement of economic interests filed by members of the press shall further include

the names of all newspapers or publications, radio stations, television stations, or news-gathering organizations by which they are employed, and what other occupations or employment they may have, if any; and they shall further declare that they are not employed in any legislative or executive department of government, and that they are not employed, directly or indirectly, by any person or corporation having legislation before the State Legislature, and that they will not become so engaged in any of these activities while covering the State Legislature or state government.

Section 15. Any citizen of the State shall report to the State Ethics Commission when he, or a business with which he is associated, represents for a fee any person before a state regulatory agency or commission or a department of the executive branch or when a contract is entered into for the sale of goods or services to the State of Alabama or any of its agencies in amounts exceeding $1,000, that he has an adult child, parent, spouse, brother, or sister, who holds a state office or is a state employee as defined in this act, and such officer or employee, and the person represented or the contract made, shall be named in said statement.

Section 16.

(a) Every state agency head shall file reports with the commission on any matters that come to his attention which may constitute a violation of this act.

(b) State agency heads shall cooperate in every possible manner in connection with any investigation or hearing, public or private, which may be conducted by the commission.

(c) Such agency heads shall forthwith comply with any lawful directive, order or instruction received from the commission and shall immediately suspend, demote, discharge or take other disciplinary action against any employee under their supervision when ordered to do so by the commission.

(d) Failure on the part of any agency head who is not an elected official to comply promptly with any lawful directive, order or instruction received from the commission shall subject him to all penalties provided for elsewhere in this act and shall cause the immediate suspension of all salary and other benefits which he otherwise would be entitled to receive. Such suspension shall remain in effect during the period in which he fails or refuses to comply, and all state employees are hereby directed to refuse to honor any drafts or other documments which would violate this provision.

(e) The head of each state agency shall furnish the commission when requested to do so a list showing the names, positions and compensation, if any (whether such compensation consists of salary, wages, a contract figure, per diem, expenses, or any other thing of value) and the time actually spent earning such compensation of all state employees whether or not such employees are covered under the provisions of this act. The list shall be prepared at the expense of the agency furnishing it out of funds available to such agency.

(f) The head of each state agency shall constantly screen all employees under his supervision to ascertain that such employees are needed to perform the work of the agency and shall promptly take the necessary steps to reduce the number of the employees of the agency to a sufficient or satisfactory number required. Knowingly having one or more employees on the payroll who are not rendering service for which they are being paid shall subject the agency head as well as such employee to the disciplinary action and penalties provided by this act.

(g) The commission shall prepare and publish, prior to the implementation of this act, procedures for review or appeal of any action taken against or in regard to any official covered in this act.

Section 17.

(a) There is hereby created a State Ethics Commission which shall be composed of five members, each of whom shall be a fair, equitable citizen of this state and of high moral character. No member of the commission shall be eligible for appointment to succeed himself, except that members appointed to the first commission may each be appointed one time to succeed himself. One member of such commission shall be appointed by each of the following officers: the Governor, the Lieutenant-Governor, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, and the Attorney General. The members of the first commission shall be appointed for terms of office expiring one, two, three, four and five years, respectively, from the date on which this act becomes law, the member being appointed by the Governor having the one-year term, the member appointed by the Lieutenant-Governor having the two-year term, the member appointed by the Speaker of the House having the three-year term, the member appointed by the Chief Justice having the four-year term, the member appointed by the Attorney General having the five-year term. Successors to the members of this first commission shall each be appointed for terms of five years and until their successors are appointed and have qualified. If any of the above listed

appointing authorities should fail to make his appointment to the first commission within forty-five days after this act becomes law or to fill a vacancy forty-five days after such vacancy occurs, then the Governor may make such appointment; but the term of such appointee shall be for the period prescribed for a member appointed by the officer authorized to make such appointment but who failed to do so. If at any time there should be a vacancy on the commission, a successor member to serve for the unexpired term applicable to such vacancy shall be appointed by the same appointing authority as the member whose unexpired term such successor is to fill. The commission shall elect one member to serve as chairman of the commission and one member to serve as vice chairman. The vice chairman shall act as chairman in the absence or disability of the chairman or in the event of a vacancy in that office.

As soon as all the members of the board have been appointed the Governor shall call and provide for the holding of an organizational meeting of the commission. Such meeting shall be set for not less than forty-five days nor more than sixty days after this act becomes effective.

(b) A vacancy in the commission shall not impair the right of the remaining members to exercise all the powers of the commission and three members thereof shall constitute a quorum.

(c) The commission shall at the close of each fiscal year report to the legislature and the Governor concerning the action it has taken; the names, salaries, and duties of all individuals in its employ and the monies it has disbursed; and shall make such further reports on the matters within its jurisdiction and such recommendations for further legislation as may appear desirable.

(d) Members of the commission shall, while serving on the business of the commission, be entitled to receive compensation at the rate of $50 per day, and each such member shall be paid the actual and necessary expenses incurred in the performance of his duties as a member of the commission when approved by the chairman thereof.

(f) All members, officers, agents, attorneys, and employees of the commission shall be subject to the provisions of this act and also to the provisions of law prohibiting political activities by state employees.

(g) The commission shall appoint an Executive Director and such other staff as is needed. All such appointees shall serve at the pleasure of the commission. All such employees, except the Executive Director, shall be employed subject to the

provisions of the state merit system law, and their compensation shall be prescribed pursuant to such law. The compensation of the Executive Director shall be fixed by the Commission, but shall not exceed $25,000 per year. The Executive Director shall be responsible for the administrative operations of the commission and shall perform such other duties as may be delegated or assigned to him from time to time by regulation or order of the commission. However, the commission shall not delegate the making of regulations to the Executive Director.

(h) The commission is hereby authorized, when in its discretion the ends of justice will be thereby served, to waive any rule or regulation presented relative to any disclosure statement, provided such waiver is done in writing stating the reason why and made a part of the public record.

Section 18. It shall be the duty of the commission:

(a) To prescribe forms for statements required to be filed by this act, and to furnish such forms to persons required to file such statements;

(b) To prepare and publish a manual setting forth recommended uniform methods of reporting for use by persons required to file statements required by this act;

(c) To accept and file any information voluntarily supplied that exceeds the requirements of this act;

(d) To develop a filing, coding, and cross-indexing system consonant with the purposes of this act;

(e) To make the reports and statements filed with it available at reasonable hours to responsible public inquiry subject to such regulations as the commission may prescribe including, but not limited to regulations requiring identification by name, occupation, address and telephone number of each such person examining information on file with the commission.

(f) To preserve such reports and statements for a period of ten years from date of receipt;

(g) To make investigations with respect to statements filed under the provisions of this act, and with respect to alleged failures to file any statement required under the provisions of this act and, upon complaint by any individual with respect to alleged violation of any part of this act; and whenever in its opinion a thorough audit of any person or any business should be made in order to determine whether this act has been violated, the commission shall direct the Examiner of Public Accounts to have such audit made and a report thereof filed with the com-

mission. The Examiner of Public Accounts shall upon receipt of such directive immediately comply therewith;

(h) To report suspected violations of law to the appropriate law enforcement authorities;

(i) To issue, upon request, and publish advisory opinions on the requirements of this act, based on a real or hypothetical set of circumstances;

(j) To prescribe, publish and enforce rules and regulations to carry out the provisions of this act;

(k) To prescribe, publish and enforce rules of ethical conduct applicable to county and municipal officers and employees, and specifically including rules relative to financial disclosure by such county and municipal officers and employees. No such rules, however, shall be adopted until notice thereof is given by publication at least thirty days prior to the date set for adoption thereof and an opportunity afforded to the public to appear and contests such rules. Any such rules prescribed by the commission shall become effective at the same time that the provisions of this act relative to state officers or employees are implemented;

Provided however that the rules of ethical conduct and rules relative to county and municipal officers and employees shall be no less stringent than said rules prescribed for state officials or employees.

(l) After the commission has been organized pursuant to this act and has prescribed the rules and regulations and adopted and promulgated such rules and regulation, it shall give notice for sixty days prior thereto of the day on which such rules and regulations shall become effective throughout this state and other provisions of this act shall be thereby implemented.

Section 18(A). Each cabinet member, each department head and each assistant department head appointed by the Governor shall be subject to and shall comply with all provisions of this Act. Each such official shall not own any stock, bonds or other interest in any corporation, firm, partnership or any other business which does business with the State, and shall not receive any income from any other state, county, city or federal service, agency or institution.

Any such official presently serving in office shall be allowed thirty days after the effective date of this Act to divest himself of any such ownership and to terminate any arrangements for any such income.

Any person that is so appointed to any such office after the effective date of this Act shall be allowed thirty days after the date of his appointment to divest himself of any such ownership and to terminate any arrangements for any such income.

Section 19.

(a) Every person employed or retained as a lobbyist shall register by filing a form prescribed by the commission within five (5) days after the first undertaking requiring registration.

(b) The registration shall be written, verified, and shall contain, but not be limited to, the following information:

(1) the registrant's full name and address;

(2) the registrant's normal business and business address;

(3) the full name and address of the registrant's principal(s);

(4) a listing of the catagories of subject matters on which the registrant is to communicate directly with a member of the legislative or executive branch to influence legislation or executive action;

(5) if an registrant's activities are done on behalf of the members of a group other than a corporation, the registration form shall include a catagorical disclosure of the number of members of the group as follows: 1-5; 6-10; 11-25; over 25.

(6) a statement signed by the principal(s) that he has or they have read the registration, knows its contents, and has authorized the registrant to be a lobbyist in his or their behalf as specified therein and that no compensation will be paid to the registrant contingent upon passage or defeat of such measure(s).

(c) A registrant shall file a supplemental registration indicating any substantial change in the information contained in the prior registration within 10 days after the date of the change.

Section 20.

Every person registered under Section 18 of this act and every principal employing such lobbyist shall file with the commission a sworn statement concerning the activities set out in said section. The report must be filed between the 1st and 15th day of each month succeeding a month in which the legislature is in session covering the activities during the previous month. The report shall be written, verified, and contain, but not be limited to, the following information:

(1) All amounts received or expended directly or indirectly for the purpose of carrying on lobbying activities in the following catagories: Less than $1,000; $1,000-$3,000; more than $3,000; but need not include amounts received by such lobbyist for his personal living expenses nor amounts received which are reportable as income to him for federal tax purposes unless his contract of employment provides that amounts received for such expenses or as such income may or shall be used for carrying on lobbying activities;

(2) A detailed statement of any money loaned or promised to legislators or to anyone on their behalf; and

(3) A statement detailing the extent of any direct business association or partnership with any current member of the legislature or public official or employee.

(4) A list of legislation by catagory supported or opposed by the registrant, by any person retained or employed by the registrant to appear on his behalf, or by any other person appearing on his behalf.

Section 21.

(a) A person who ceases to engage in activities requiring him to register under Section 18 of this act shall file a written, verified statement with the commission acknowledging the termination of activities. The notice is effective immediately.

(b) A person who files a notice of termination under this section must file the reports required under Sections 18 and 19 of this act for any reporting period during which he was registered under this act.

Section 22.

All reports filed under Sections 18, 19, and 20 of this act are public records and shall be made available for public inspection during regular business hours.

Section 23.

No person, for the purpose of influencing legislation, may

(1) knowingly or willfully make any false statement or misrepresentation of the facts to a member of the legislative or executive branch; or

(2) knowing a document to contain a false statement, cause a copy of the document to be received by a member of the legislative or executive branch without notifying such member in writing of the truth.

Section 24.

The provisions of Sections 18, 19, 20, 21, and 22 shall not be construed as affecting professional services in drafting bills or in advising clients and in rendering opinions as to the construction and effect of proposed or pending legislation where such professional service is not otherwise connected with legislative action.

Section 25.

Nothing in the provisions of this act shall be construed as to deprive any citizen not lobbying for hire of his constitutional right to communicate with members of the Legislature.

Section 26.

(a) Any person who violates any provision of this act and is found guilty shall be fined not more than $10,000 or be imprisoned for not more than 10 years or both. Any person who violates the provisions of this act and is found guilty, in addition to any other penalty prescribed by law, shall pay into the treasury of the state a sum of money equal to three times the financial gain resulting from such violation.

(b) All prosecutions for violations of the provisions of this act shall be initiated and prosecuted by the attorney general of the state or by the district attorney having jurisdicion of the offense.

(c) The penalties prescribed in this act do not limit the power of either house of the legislature to discipline its own members or to impeach public official, and do not limit the powers of agencies or commissions to discipline their respective officials or employees.

(d) The circuit courts of this state shall have jurisdiction of all cases and actions relative to violations or the enforcement of this act; and the venue of any suit or action under this act shall be in the county of the residence of the defendant.

(e) Nothing in this act is intended to, nor is to be construed as repealing in any way the provisions of any of the criminal laws of this state.

Section 27. Any person who knowingly and intentionally files a false complaint with the commission, or any member of the commission who initiates action against any state official, state employee, or any other person covered by this act, knowing such complaint to be false or inaccurate shall be guilty of the crime of making false accusation.

Whoever is convicted in a court of competent jurisdiction of the crime of making false accusation, in addition to any other punishment prescribed by law therefor, shall also be required by court decree to reimburse the person against whom the false complaint was filed for all of his legal expenses and any other expenses incurred in relation to the accused defending himself against the false complaint. If such complaint is filed within 6 months prior to an election in which the accused's name appears on the ballot, the person filing the false complaint shall pay to the accused the amount set out above, plus an equal amount to the general fund of the state.

If any person, accused of violating this Article is acquitted upon trial, then such person may, in the discretion of the court or jury, recover in an action at law from the person who brought the charge against him a sum equal to three times the damages thereby caused.

Section 28. No former member of the House of Representatives or the Senate of the State of Alabama shall be extend floor privileges of either body; in a lobbying capacity.

Section 29. The governor is hereby authorized and directed to make available for the expenses of affectuating the provisions of this act such sums as are needed therefor from any appropriations heretofore made to be expended at his discretion.

Section 30.

Any citizen wishing to file a complaint against any public official or employee covered by this Act shall initially file said complaint with the Commission. If the Commission does not take proper action within forty-five days, then the said citizen may file the said complaint with the Attorney General or other officers authorized to enforce this Act.

Section 31.

The provisions of this Act are severable. If any part thereof is declared unconstitutional, such declaration shall not affect the part which remains.

Section 32.

The provisions of this Act are supplemental. It shall be construed in pari materia with other laws dealing with the subject matter hereof; however, all laws or parts of laws which specifically conflict herewith are hereby repealed.

Section 33. The provisions of this Act shall become effective immediately upon its passage and approval by the Governor or its otherwise becoming a law, except that state officials shall

not come under the provisions, penalties, terms, and conditions of said Act until their next term of office following the passage of this Act commences.

Approved September 14, 1973.

Time: 1:55 P.M.

Act No. 1057 H. 1259—Stubbs, Wynot, Headley, Burgess, Lyons, Drake, Robertson, Grainger, Williams, Bowers, Meeks, Waggoner, Easters, Therrell, Reid (R), Carnes, Grey (D), Goodwin, Waldrop, Downing

AN ACT

To amend Section 198, Subsections C and F of Section 201, Paragraph 3 of Subsection C of Section 204, Section 207, Subsections B and C of Section 214, Subsections C and D of Section 216, Section 239 and Paragraph (1) of Subsection F of Section 240, Title 26, Chapter 4, Code of Alabama 1940, relating to appointment of an Alternate Treasurer, merging of non-profit organizations, financing unemployment benefits by political subdivisions, extending the time limit an employer may file a claim for credit for rehire, increasing the maximum weekly benefit amount, limiting disqualifications for certain separations and increasing the penalty for other separations, non-charging an employer's experience rating record, crediting the employer's experience rating record when a decision allowing benefits is reversed by an appellate authority, providing a fine for an employer failing to file a contribution report, relieving newly subject construction contractors of the requirement to provide surety and permitting the requirement of surety from delinquent construction contractors.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 198, Title 26, Chapter 4, Code of Alabama 1940, as last amended, is hereby amended to read:

"§ 198. Treasurer.—The director shall designate an employee of the Unemployment Compensation Agency as Treasurer of the Fund who shall pay all vouchers or checks duly drawn upon the Fund, in such manner as the director may prescribe. The director shall also designate an employee of the Unemployment Compensation Agency as Alternate Treasurer who, in case of extended absence of the Treasurer shall, upon written notice from the director, perform all duties of the Treasurer. The Treasurer shall maintain within the Fund the following separate accounts: a clearing account, an unemployment trust fund account, an unemployment benefit payment account, and such other account or accounts as may be necessary for the payment of any Federal unemployment benefits.

All moneys payable to the Fund, upon receipt thereof by the director, shall be forwarded to the Treasurer who shall immediately deposit them in the clearing account. Refunds payable pursuant to Section 243 of this title (with the exception of refunds of interest and penalties collected pursuant to sections 238, 239 and 240 of this chapter) may be paid from the clearing account upon warrants issued by the Treasurer, as aforesaid, under the direction of the director. After clearance thereof, all other moneys in the clearing account (with the exception of said interest and penalties collected pursuant to sections 238, 239 and 240 of this chapter) shall be deposited by warrants issued as aforesaid, with the Secretary of the Treasury of the United States of America to the credit of the account of this State in the Unemployment Trust Fund established and maintained pursuant to section 904 of the Social Security Act, any provisions of law in this State relating to the deposit, administration, release, or disbursement of moneys in the possession or custody of this State to the contrary notwithstanding. The benefit payment account shall consist of all moneys requisitioned from the State's account in the Unemployment Trust Fund. Except as herein otherwise provided, moneys in the clearing and benefit accounts may be deposited by the Treasurer, under the direction of the director, in any bank or public depository in which general funds of the State may be deposited but no public deposit insurance charge or premium shall be paid out of the Fund. The Treasurer shall give bond conditioned upon the faithful performance of his duties as Treasurer of the Fund in a form prescribed by statute or approved by the Attorney General, and in an amount specified by the director and approved by the Governor. All premiums upon bonds required pursuant to this section when furnished by an authorized surety company or by a duly constituted governmental bonding firm shall be paid from the unemployment administration fund.

Interest and penalties collected pursuant to sections 238, 239 and 240 of this chapter, shall be deposited in the clearing account only for the purpose of transfer to the Special Employment Security Administration Fund provided for in section 248 of this chapter, and shall be spent in accordance with the provisions of said section 248."

Section 2. Subsection C of Section 201, Title 26, Chapter 4, Code of Alabama 1940, as last amended, is hereby amended to read:

"§ 201 C. With respect to employment after December 31, 1971, any non-profit organization which, pursuant to the provisions of subsection H of section 185 of this chapter, is or becomes subject to this chapter after December 31, 1971,

shall pay contributions under the provisions of subsection B of this section and section 204 of this chapter, unless it elects in accordance with paragraph (1) of this subsection to pay to the director for the fund an amount equal to the amount of regular benefits and one-half of the extended benefits paid, that is attributable to service in the employ of such employer, to individuals for weeks of unemployment which begin during the effective period of such election.

(1) Any non-profit organization which becomes subject to this chapter on January 1, 1972, by virtue of its employment during calendar year 1971 may elect to become liable for payments in lieu of contributions for a period of not less than nine consecutive calendar quarters beginning with January 1, 1972, provided it files with the director a written notice of its election within the 30-day period immediately following such date. Any non-profit organization which becomes subject to this chapter by virtue of its employment subsequent to calendar year 1971 may elect to become liable for payments in lieu of contributions for a period of not less than seven consecutive calendar quarters by filing a written notice of its election with the director not later than 30 days immediately following the date on which the conditions rendering such organization subject were fulfilled.

(2) Any non-profit organization which makes an election in accordance with paragraph (1) of this subsection will continue to be liable for payments in lieu of contributions until it files with the director a written notice terminating its election. Any such termination shall be effective at the end of the first calendar quarter of a calendar year. Said notice shall be filed not later than the first day of March preceding the effective date of such termination.

(3) Any non-profit organization which has been paying contributions under this chapter for a period of at least one calendar year subsequent to January 1, 1972, may change to a reimbursable basis by filing with the director not later than the first day of December preceding the beginning of any calendar year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by the organization during that and the next calendar year and may be terminated only at the end of the first calendar quarter in a calendar year.

(4) The director may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after December 31, 1971.

(5) The director shall notify each non-profit organization of any determination which he makes of its status as an employer and of the effective date of any election which it makes and of any termination of such election and of benefits paid in accordance with such regulations as he may prescribe. Such notice and determination shall be subject to the provisions for review and finality as set out in section 204 C (4) of this chapter.

(6) Any non-profit organization which elects to make payments in lieu of contributions shall pay to the director for the fund such amounts and in such manner and at such time as is set out in subsection F of this section.

(7) When two or more non-profit organizations as defined in subsection 186 C of this chapter merge or one non-profit organization is acquired by another such organization, the method of payment for the surviving entity, shall be that method elected by such surviving entity under the provisions of this section and in effect at the time of the merger or acquisition. Such method shall remain in effect until such time as it is changed as provided in paragraphs (2) and (3) of this subsection."

Section 3. Subsection F of Section 201, Title 26, Chapter 4, Code of Alabama 1940, as last amended, is hereby amended to read:

"§ 201 F. Reimbursement payments.—Payments in lieu of contributions shall be made in accordance with provisions of paragraphs (1) and (2) of this subsection.

(1) Each non-profit organization or group of such organizations which has elected to make payments in lieu of contributions shall at the end of each calendar quarter, or at the end of any other period as the director shall prescribe, pay to the director an amount equal to the full amount of regular benefits plus one-half of the extended benefits paid during such quarter or other prescribed period that is attributable to services in the employ of such organization. Such payment shall be made within 20 calendar days after notice of the amount due is mailed by the director.

(2) Each hospital or institution of higher education operated by this State or any instrumentality thereof, and each political subdivision (or two or more political subdivisions) which has elected coverage under the provisions of section 225 of this chapter shall make such payments to the director in an amount representing one of the following:

(a) For the calendar quarter beginning July 1, 1972, and each succeeding calendar quarter thereafter through and in-

cluding the quarter ending September 30, 1973, such amount as such employer may estimate to be the amount of regular benefits and one-half of the extended benefits to be paid during such quarter and attributable to such employer but the amount shall not be less than twenty-five hundredths (0.25) percent of its average quarterly payroll (without regard to the limitations specified in section 191 of this chapter) paid to all employees covered by this chapter in its employ during the calendar year 1971, said payments to be made not later than the tenth day of the first month of each quarter.

(b) For each calendar quarter during fiscal years beginning on and after October 1, 1973, such percentage of its average quarterly covered payroll for the four-quarter period ending on the immediately preceding June 30 as the director shall determine. Such determination shall be based each year on the average quarterly benefit cost during the four calendar quarter period ending on the immediately preceding June 30, which is attributable to service in the employ of such organizations.

(c) Any political subdivision (or group of political subdivisions) electing coverage for their hospital or institution of higher education with an effective date subsequent to January 1, 1971, will make the advance payment as provided in subparagraph (a) of paragraph (2) above in such amount as is therein provided within the first 10 days of the first month of the second quarter following the quarter during which the election becomes effective and during the first 10 days of each calendar quarter thereafter until the first day of October of the calendar year next following the calendar year during which such payment shall be computed as provided in subparagraph (b) of paragraph (2) of this subsection.

(d) For any organization which did not pay wages throughout the periods specified in subparagraphs (a) and (b) respectively, of this paragraph, the average quarterly covered payroll shall be as determined by the director based on that portion of such periods during which wages were paid.

(3) At the end of each one-year period for which a rate for payments in lieu of contributions has been set, the director may modify the quarterly percentage of payroll thereafter payable by the organization in order to minimize excess or insufficient payments.

(4) At the end of each one-year period for which a rate for payments in lieu of contributions has been set, the director shall determine whether the total of payments for such year made by any employer is less than, or in excess of, the total amount of regular benefits plus one-half of the amount of extended benefits paid to individuals during such year based on

wages attributable to service in the employ of such employer. Each such employer whose total payments for such year are less than the amount so determined shall be liable for payments of the unpaid balance to the fund in accordance with this subsection. If the amount so determined for the specified one-year period, all or a part of the excess may, at the discretion of the director, be refunded from the fund or retained in the fund as part of the payments which may be required for the next such year. Any payments due to be made under this paragraph shall be made not later than 10 days after the date on which the director shall mail to the employer notice of the amount.

(5) Payments made by any organization under the provisions of this subsection shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of such organizations.

(6) Payments in lieu of contributions shall unless otherwise prohibited by law, be subject to the same penalties, collection and enforcement proceedings and provisions for hearing and review, extensions, refunds and protections that pursuant to sections 238, 239, 240, 241, 242, 243, 244 and 251 of this chapter apply to contributions.

(7) Surety.—Any non-profit organization which elects to become liable for payments in lieu of contributions shall, in addition to making such payments, be required within 30 days after the date the director mails notice of his approval of its election, to execute and file with the director a surety bond, or a cash deposit in lieu thereof, as approved by the director. For the purpose of this paragraph, a surety bond is a bond of surety issued by an organization licensed and authorized to issue such bond in this State. The amount of the surety bond or cash deposit required by this paragraph shall be an amount as determined by the director but not more than two and seven tenths (2.7) percent of the organization's wages as defined in this chapter for the four calendar quarters immediately preceeding the effective date of the election or the renewal date in case of a bond or the biennial anniversary in the case of a cash deposit, whichever date shall be most recent and applicable. For any such organization which did not pay wages throughout each of four such calendar quarters the amount of the bond or deposit shall be as determined by the director.

(a) Surety bond.—Any surety bond deposited under this subsection shall be in force for a period of not less than two full calendar years and shall be renewed not less frequently than at two-year intervals as long as the organization continues to be liable for payments in lieu of contributions. The director shall

require adjustments to be made in a previously filed bond as he deems appropriate. If the bond is to be increased, the adjusted bond shall be filed by the organization within 30 days of the date notice of such adjustment was mailed or otherwise delivered to it. Failure of any organization covered by such bond to pay the full amount of payments in lieu of contributions when due, together with any applicable interest and penalties as provided by this chapter shall render the surety liable on said bond to the extent of the bond, as though the surety was such organization.

(b) Deposit of money.—Any deposit of money in accordance with this paragraph shall be retained by the director in an escrow account until liability under the election is terminated, at which time it shall be returned to the organization, less any deductions as hereinafter provided. The director may deduct from the money deposited under this subsection by any organization to the extent necessary to satisfy any due and unpaid payments in lieu of contributions and any applicable interest and penalty. The director shall require the organization within thirty days following any deduction from a money deposit under the provisions of this subsection to deposit sufficient additional monies to make whole the organization's deposit at the prior level. The director may, at any time, review the adequacy of the deposit made by any organization. If as a result of such review, he determines that an adjustment is necessary, he shall require the organization to make an additional deposit within thirty days of written notice of his determination or shall return to it such portion of the deposit as he no longer considers necessary whichever action is appropriate.

(c) If any organization subject to this section fails to file a surety bond or make a cash deposit or to file a surety bond in an increased amount or to increase or make whole the amount of a previously made cash deposit, or fails to pay before the delinquency date any payments due together with any accumulated interest and penalty as provided by this chapter, the director may terminate such organization's election to make payments in lieu of contributions effective as of the end of any calendar quarter and such termination shall continue for not less than two consecutive calendar years; provided, that the director may extend for good cause the posting of a cash deposit, the filing of a surety bond or the extension of an adjustment period by not more than thirty days.

(8) Allocation of benefit costs.—If benefits paid to an individual are based on wages paid by two or more employers, the amount of benefits payable by an organization required to or electing to make payments in lieu of contributions shall be an

amount which bears the same ratio to the total benefits paid to the individual as the total base period wages paid by such employer to the individual and used for the payment of benefits bears to the total base period wages paid to the individual by all his base period employers and used for payments of benefits.

(9) Group accounts.—Two or more employers that have elected to make payments in lieu of contributions in accordance with the provisions of this subsection may file a joint application to the director for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such organizations. Each such application shall identify and authorize a group representative to act as the group's agent for the purposes of this subsection. Upon his approval of the application, the director shall establish a group account for such employers effective as of the beginning of the calendar quarter next following the quarter in which he received such application, and shall notify the group's representative of the effective date of the account. Such group account shall remain in effect for not less than eight calendar quarters and thereafter until terminated at the discretion of the director or upon application by the group. Upon establishment of the account, each member of the group shall be liable for payments in lieu of contributions with respect to each calendar quarter in the amount that bears the same ratio to the total benefits paid in such quarter that are attributable to service performed in the employ of all members of the group as the total wages paid for services in employment by such member in such quarter bears to the total wages paid during such quarter for service performed in the employ of all members of the group. The director shall prescribe such regulations as he deems necessary with respect to applications for establishment, maintenance and termination of group accounts that are authorized by this subsection, for addition of new members to, and withdrawal of active members from, such accounts, and for the determination of the amounts that are payable under this subsection by members of a group and the time and manner of such payments.

(10) Notwithstanding any other provisions of this chapter, any employer that was liable for payments in lieu of contributions for the period immediately preceding the effective date of termination of its coverage pursuant to section 224 of this chapter shall nevertheless continue to be liable to pay to the director for the fund the amount of regular benefits and one-half of the extended benefits paid, that is attributable to service in the employ of such employer prior to the effective date of such termination, to individuals for weeks of unemployment which begin on or after such effective date. Such payments to the director shall be made at such times and in such manner as

the director shall prescribe and the director may continue to require payments in lieu of contributions and surety in such amounts and for such period as he may deem necessary to insure restoration to the fund of the amount of such regular and extended benefits."

Section 4. Paragraph 3 of Subsection C of Section 204, Title 26, Chapter 4, Code of Alabama 1940, as last amended, is hereby amended to read:

"§ 204. C. (3) Notwithstanding any inconsistent provisions of this chapter, if after the last day of any claimant's benefit year but within the forty-five (45) days next following thereafter or within forty-five (45) days next following notice to the employer of benefit wage charges made as a consequence of such claimant's receipt of benefits, whichever is the later, an employer for whom benefit wage charges were made as a consequence of such claimant's receipt of benefits alleges that he had reemployed such claimant within the claimant's benefit year, and the director finds that such employee received in benefits a total amount aggregating not more than twenty-five (25) percent of the maximum benefit payments to which he was entitled within such benefit year, because of such reemployment, the employer's benefit wage record shall be credited with seventy-five (75) percent of the benefit wages previously charged against him relating to such claimant's previous employment; or if the director finds that such employee received in benefits an amount aggregating more than twenty-five (25) percent but not more than fifty (50) percent of the maximum benefits to which he was entitled within such benefit year, because of such reemployment, the employer's benefit wage record shall be credited with fifty (50) percent of the benefit wages previously charged against him relating to such claimant's previous employment; or if the director finds that such employee received in benefits a total amount aggregating more than fifty (50) percent but not more than seventy-five (75) percent of the maximum benefits to which he was entitled within such benefit year, because of such reemployment, the employer's benefit wage record shall be credited with twenty-five (25) percent of the benefit wages previously charged against him relating to such claimant's previous employment. Provided, however, that such credits shall be made for the calendar year and the calendar quarter in which the finding is made by the director and no attempt shall be made to relate such credits to the period in which the rehire occurred; "reemployment" meaning performing services for remuneration."

Section 5. Section 207, Title 26, Chapter 4, Code of Alabama 1940, as last amended, is hereby amended to read:

"§207. Weekly benefit amount.—An individual's weekly benefit amount shall be an amount equal to 1/26th of the total wages for insured work paid to him during that quarter of his base period in which such total wages were the highest, except that:

A. If the amount thus derived is not a multiple of $1.00, it shall be rounded to the nearest multiple of $1.00.

B. If the amount thus derived is less than $14.50, the weekly benefit amount shall be $15.00, provided that, during that quarter of his base period in which the wages paid to him for insured work were the highest, the individual was paid wages of more than $350.00 for insured work on other than a part-time basis.

C. If, for benefit years beginning after the effective date of this act but before July 1, 1974, the amount thus derived is more than $67.50, the weekly benefit amount shall be $68.00.

D. If, for benefit years beginning on or after July 1, 1974, the amount thus derived is more than $74.50, the weekly benefit amount shall be $75.00."

Section 6. Subsections B and C of Section 214, Title 26, Chapter 4, Code of Alabama 1940, as last amended, is hereby amended to read:

"§ 214 B. If he has left his most recent bona fide work voluntarily without good cause connected with such work.

(1) However he shall not be disqualified if he was forced to leave work because he was sick or disabled, notified his employer of the fact as soon as it was reasonably practicable so to do and returned to that employer and offered himself for work as soon as he was again able to work; provided, however, this exception shall not apply if the employer had an established leave-of-absence policy covering sickness or disability and (a) the individual fails to comply with same as soon as it is reasonably practicable so to do, or (b) upon the expiration of a leave of absence he shall fail to return to said employer and offer himself for work, if he shall then be able to work, or, if he is not then able to work, he fails to so notify his employer of that fact and request an extension of his said leave of absence as soon as it is reasonably practicable so to do.

In case of doubt that an individual was sick or disabled, or as to the duration of any such sickness or disability, the director may, or if the employer requests it, the director shall require a doctor's certificate to establish the fact or facts in doubt.

An established leave-of-absence policy shall be any leave-of-absence policy covering sickness and disability communicated

to the employee by the customary means used by the employer for communicating with his employees.

Provided, however, that nothing herein shall be construed or interpreted as authorizing the payment of benefits to any person during or for unemployment due to sickness or disability or during any period in which he is on a leave of absence granted in accordance with an established leave-of-absence policy the duration of which leave was set in accordance with his request or in accordance with a collective bargaining agreement; except that if such leave of absence is on account of pregnancy and extends beyond the tenth week following termination of such pregnancy, the individual shall not be denied benefits under the provisions of this subsection beyond such tenth week if she has given the employer three weeks notice of her desire to return to work, is then able to work, and has not refused reinstatement to a job which under the provisions of subsection E of this section would be deemed suitable for her.

(2) When an individual is disqualified under this subsection—

(a) He shall not be entitled to benefits for the week in which the disqualifying event occurs or for any week thereafter until (i) he has reentered insured employment or employment of the nature described in paragraphs (5) (6) (7) (8) (9) (10) or (18) of subsection K of section 186 of this title and (ii) for which employment he has earned wages equal to at least ten times his weekly benefit amount for the benefit year in which such disqualification is assessed.

(b) The total amount of benefits to which he may otherwise be entitled as determined in accordance with section 209 of this title shall be reduced by an amount equal to not less than six nor more than twelve times his weekly benefit amount.

(c) For the purpose of the experience rating provisions of section 204 of this title no portion of the wages paid to him for the period of employment ending with the separation to which the disqualification applies shall be determined to be employee's or employer's benefit wages. If the individual has been separated from employment other than his most recent bona fide work under conditions which would have been disqualifying under this subsection had the separation been from his most recent bona fide work and the employer answers a notice of payment within ten (10) days after it is mailed to him detailing the facts in connection with the separation, then no portion of the wages for the period of employment ending in such separation shall be determined to be employee's or employer's benefit wages.

(3) Provided further he shall not be disqualified if he left his employment and immediately returned to work with his regular employer or to employment in which he had prior existing statutory or contractual seniority or recall rights. When this exception is applied, wages paid for that period of employment immediately preceding the separation to which the exception is applied which have not been heretofore determined to be benefit wages, shall not be determined to be employer's or employee's benefit wages for the purpose of the experience rating provisions of section 204 of this title.

(4) For the purposes of this subsection and subsection C of this section the director in determining the "most recent bona fide work" shall consider the duration of the most recent job or jobs, the intent of the individual and his employer as to the permanence of such work and whether separation from the immediately preceding employment was under conditions which would be disqualifying in the event such immediately preceding employment should be determined to be the most recent bona fide work.

C. (1) If he was discharged or removed from his work for a dishonest or criminal act committed in connection with his work or for sabotage or an act endangering the safety of others. Disqualification under this paragraph may be applied to separations prior to separation from the most recent bona fide work only if the employer has filed a timely notice with the director alleging that the separation was under conditions described in this paragraph. When an individual is disqualified under this paragraph—

(a) He shall not be entitled to benefits for the week in which the disqualifying event occurs or for any week thereafter until he has reentered insured employment or employment of the nature described in paragraphs (5) (6) (7) (8) (9) (10) or (18) of subsection K of section 186 of this title.

(b) He shall not thereafter be entitled to any benefits under this chapter on account of wages paid to him for the period of employment by the employer by whom he was employed when the disqualifying event occurred.

(c) For the purpose of the experience rating provisions of section 204 of this title, no portion of such wages shall be determined to be employee's or employee's benefit wages for any benefit year or base period. If in the case of a separation prior to separation from the most recent bona fide work the only reason disqualification under this paragraph was not assessed was the failure of the employer to properly file a timely separation report with the director but such employer does file such a report within ten (10) days after the mailing of a notice of

payment, then no portion of the wages paid for the period of employment ending in such prior separation shall be determined to be employee's or employer's benefit wages.

(2) If he was discharged from his most recent bona fide work for actual or threatened deliberate misconduct committed in connection with his work (other than acts mentioned in paragraph (1) of this subsection) after previous warnings to the individual. When an individual is disqualified under this paragraph, or exempt from disqualification for a separation under such conditions prior to his most recent bona fide work, the effect shall be the same as provided in paragraph (2) of subsection B of this section for disqualification or exemption from disqualification respectively.

(3) If he was discharged from his most recent bona fide work for misconduct connected with his work (other than acts mentioned in paragraphs (1) and (2) of this subsection).

(a) He shall be disqualified from receipt of benefits for the week in which he was discharged and for not less than the two nor more than the six next following weeks as determined by the director in each case according to the seriousness of the conduct.

(b) The total amount of benefits to which he may otherwise be entitled as determined in accordance with section 209 of this title shall be reduced by an amount equal to the product of the number of weeks for which he shall be disqualified multiplied by his weekly benefit amount.

(c) Only one-half of the wages paid to him for that period of employment immediately preceding the separation to which the disqualification applies shall be determined to be employee's or employer's benefit wages for the purposes of the experience rating provisions of section 204 of this title. If the individual has been separated from employment other than his most recent bona fide work under conditions which would have been disqualifying under paragraph [(3)] had the separation been from his most recent bona fide work and the employer answers a notice of payment within ten (10) days after it is mailed to him detailing the facts in connection with the separation, then only one-half of the wages paid to him for that period of employment immediately preceding the separation shall be determined to be employee's or employer's benefit wages for the purposes of the experience rating provisions of section 204 of this title.

\(4) If he has been suspended as a disciplinary measure connected with his work, or for misconduct connected with his work, he shall be disqualified from benefits for the week or

weeks (not to exceed four weeks) in which or for which he is so suspended and the total amount of benefits to which he may otherwise be entitled shall be reduced in the same manner and to the same extent as provided in subparagraph (b) of paragraph (3) of this subsection."

Section 7. Subsections C and D of Section 216, Title 26, Chapter 4, Code of Alabama 1940, as last amended, are hereby amended to read:

"§ 216 C. Notice of determination and notice of payment. (1) Notice of determination or decision upon a claim shall be promptly given to the claimant and the claimant's last employing unit by delivery thereof or by mailing such notices to their last known addresses.

(2) Notice of payment will be promptly given to every employer in the claimant's base period who is not entitled to a notice of determination when the claimant has been paid an amount equal to or exceeding the amount of benefits payable to him for three (3) weeks of total unemployment by delivery thereof or by mailing such notice to their last known addresses.

D. Finality of determinations and notice of payment. (1) Unless any party to whom notice of determination is required to be given shall, within seven (7) calendar days after delivery of such notice or within ten (10) calendar days after such notice was mailed to his last known address, file an appeal from such decision, such decision shall be deemed final. If an appeal is duly filed any disputed benefits which may have been paid or any wages which may have been determined to be employee's or employer's benefit wages at any time prior to the final decision, which would not have been payable or determined to be benefit wages under the terms of the final decision, shall not be deemed paid benefits or employee's or employer's benefit wages for the purposes of the experience rating provisions of section 204 of this title and the claimant shall be required to repay to the fund any such benefits. Provided, however, any removal of such benefit wages shall be applied to the calendar year and the calendar quarter in which the determination becomes final and no attempt shall be made to relate such a credit to the period in which the wages were previously determined to be benefit wages.

(2) Unless any party to whom notice of payment is required to be given shall, within seven (7) calendar days after delivery of such notice or within ten (10) calendar days after such notice was mailed to his last known address, request the director to review the decision determining wages to be benefit wages, such decision shall become final. If the final decision provides for the removal of benefit wages, such a credit shall

be applied to the calendar year and calendar quarter in which such decision becomes final and no attempt shall be made to relate the credit to the period in which the wages were previously determined to be benefit wages."

Section 8. Section 239, Title 26, Chapter 4, Code of Alabama 1940, as last amended, is hereby amended to read:

"§ 239. Delinquent reports and contributions: penalty for.—

A. Any employer without good cause failing to pay any contribution within the time required by this chapter, or the rules and regulations of the director, shall be required by the director, shall be required by the director to pay in addition thereto a penalty of ten percent of the amount thereof together with interest on said contributions at the rate prescribed in the next preceding section. If the failure to pay on the part of the employer is due to fraud, an additional penalty of fifteen percent shall be assessed against, and collected from, such defaulting employer.

B. Any employer without good cause failing to file any quarterly wage and contribution report within the time required by this chapter, or the rules and regulations of the director, shall be required by the director to pay a penalty of five dollars for his or its failure to file such report when due. Such penalty shall be in addition to any assessed under the provisions of A. above and shall apply for each report's due date separately."

Section 9. Paragraph (1), Subsection F of Section 240, Title 26, Chapter 4, Code of Alabama 1940, as last amended, is hereby amended to read:

"§ 240. F. Bonds.—

(1) Any contractor primarily engaged in contract construction who is or becomes an employer as defined by this chapter and who is or becomes delinquent for any contributions due under this chapter may be required to post with the director a blanket surety bond by a licensed surety company authorized to do business in the State of Alabama in any amount which the director shall determine to be sufficient for the payment of all unemployment compensation taxes which will be due to the state for a period of not less than one year by virtue of its operations. In the alternative, said contractor may file a surety bond with respect to each contract. Further, in lieu of such security bond, it may deposit with the director in cash an amount equal thereto. These deposits shall be held by the director in a special deposit fund account established for that purpose. Provided further no bond or cash de-

posit shall be required for an amount to exceed ten thousand dollars unless in the opinion of the director a larger amount is necessary."

Section 10. Sections 6 and 7 of this bill shall apply to claims with a benefit year beginning on and after the first day of the tenth calendar week which begins after this bill becomes law.

Section 11. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not effect other provisions or applications of the act which can be given effect without the invalid provision or application, and for this purpose the provisions of this act are severable.

Section 12. This act to take effect upon its passage and approval by the Governor or its otherwise becoming law.

Approved September 17, 1973.

Time: 3:20 P.M.

Act No. 1058 H. 289—Turnham, Smith (P), Agee, Brassell, Adams, Snell, Hobbie, Stubbs, Mims, Warren, Crawford, Wynot

AN ACT

To make an appropriation from funds in the State Treasury to the credit of the General Fund for the purpose of constructing and equipping a building to house a livestock and poultry disease diagnostic laboratory and an agricultural chemistry laboratory at Auburn, Alabama for use by the Department of Agriculture and Industries.

Be It Enacted by the Legislature of Alabama:

Section 1. That the sum of $1,500,000 is hereby appropriated from any funds in the State Treasury to the credit of the General Fund to the State Building Commission to be expended for constructing and equipping a building at Auburn, Alabama on lands of Auburn University for use and occupancy by the Department of Agriculture and Industries as a livestock and poultry disease diagnostic laboratory and an agricultural chemistry laboratory for analysis of feeds, fertilizers and pesticides and other like or related purposes. Before any construction work is commenced with funds appropriated hereunder, Auburn University shall by deed of conveyance or a long-term lease transfer and convey to the Department of Agriculture and Industries ownership or possession of land deemed to be a suitable location for said building which shall be agreed upon

by Auburn University and the Commissioner of Agriculture and Industries. The building construction work authorized hereunder shall be under the supervision and approval of the State Building Commission, and the appropriation herein made shall be expended on order of said Commission or its duly authorized officers, agents or employees as directed by the Commission. Such construction shall also be conducted pursuant to the provisions and requirements of Chapters 1 and 2 of Title 50, Code of Alabama of 1940, as amended.

Section 2. This appropriation shall be subject to the terms, conditions and limitations of Title 55, Chapter 4, Article 3, Code of Alabama, 1940, provided, however, such appropriation shall continue in force and effect until the attainment of the object is accomplished and completed.

Section 3. This Act shall become effective on October 1, 1973.

Approved September 17, 1973.

Time: 3:07 P.M.

Act No. 1059 H. 107—Collins

AN ACT

To replace the "Alabama Apartment Ownership Act" with a new statute establishing and regulating CONDOMINIUM developments, as regards definitions; the nature, ownership and rights to possession of condominium units, common elements and limited common elements; the establishment of condominium property and the contents and recordation of declarations and bylaws and the amendment thereof, deeds, mortgages and other instruments relating to units; the administration and management of condominiums; liability, civil actions and service of process by and against the condominium and its unit owners; the ascertainment and charging of expenses for common elements and limited common elements to unit owners; the assessment of taxes and other public charges to unit owners; liens for labor and materials for work on condominium property and individual units; the mortgaging of condominium property and individual units; the termination of the condominium form of ownership; statutory construction; severability of the statute and repeal of the present Alabama Apartment Ownership Act, Act No. 206, H. 81, First Special Session (Acts 1964, p. 266).

Be It Enacted by the Legislature of Alabama:

Section 1. Short title. This chapter shall be known as the "Condominium Ownership Act."

Section 2. Definitions. As used in this chapter:

(a) "Association" means the entity responsible for the administration and management of the condominium property.

(b) "Common elements" means a part or parts of the condominium property as set forth in the declaration in which all of the unit owners have an undivided interest.

(c) "Common expenses" means the expenses arising out of ownership of common elements for which the unit owners are liable to the association in accordance with the declaration and bylaws.

(d) "Common surplus" means the excess of all receipts of the association arising out of ownership of common elements over the amount of common expenses.

(e) "Condominium" means the form of ownership of real or personal property or a combination thereof under a declaration providing for ownership of units of the property by one or more owners. Such units may consist of private elements together with an undivided interest in common and limited common elements.

(f) "Condominium property" means the property covered by the declaration and all easements, rights and interests belonging thereto or intended for the benefit thereof. Where such property is real property there is no requirement that it be contiguous.

(g) "Declaration" means the declaration as described in section 292 of this chapter, as such declaration may be amended from time to time.

(h) "Limited common elements" means a part or parts of the condominium property as set forth in the declaration in which more than one but not all unit owners have an undivided interest.

(i) "Limited common expenses" means the expenses arising out of ownership of limited common elements for which the unit owners are liable to the association in accordance with the declaration and bylaws.

(j) "Limited common surplus" means the excess of all receipts of the association arising out of ownership of limited common elements over the amount of limited common expenses.

(k) "Person" means any individual, corporation, partnership, association, trustee, fiduciary, or other legal entity.

(l) "Private elements" means a part or parts of the condominium property as set forth in the declaration and intended for exclusive ownership or possession by a unit owner.

(m) "Unit" means the private elements of the condominium property together with the undivided interest in the common

elements and limited common elements which are assigned thereto in the declaration or any amendment thereof.

Section 3. Applicability to Chapter. This chapter shall be applicable only to property, the sole owner or all of the owners of which execute and record a declaration as hereinafter provided.

Section 4. Unit to Constitute Real Property. Each unit shall be deemed real property, the ownership of which may be in fee simple or any other estate in real property recognized by law in this state, including a lease or sublease.

Section 5. Unit Ownership, Possession and Enjoyment. Any unit may be held and owned by one or more persons in any form of ownership, real estate tenancy or relationship recognized under the laws of this state. A unit may be used for residential, commercial, industrial, professional or any other use not prohibited by law. There shall be included with each unit the following:

(a) The private elements as set forth in the declaration;

(b) An undivided interest in such limited common elements as may be set forth in the declaration;

(d) The right of ownership and to exclusive use and possession of such private elements;

(e) The right to use such common elements and limited common elements in accordance with the declaration and bylaws, but consistent with the lawful rights of other unit owners;

(f) An exclusive easement for the use of any air space occupied by the private elements as they exist at any particular time and as they may lawfully be altered or reconstructed from time to time;

(g) Easements through other units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services to units and the common and limited common elements;

(h) An easement of support in every other unit which contributes to the support of such unit;

(i) The right of access to a public street or highway;

(j) Such other incidents to ownership, possession and enjoyment as the declaration may provide.

Section 6. Common Elements and Limited Common Elements.

(a) the undivided interest in the common elements and

limited common elements or the method for determining such interests shall be set forth in the declaration.

(b) Any conveyance, lease, devise or other disposition or mortgage or other encumbrance of any unit shall extend to and include such undivided interest in the common and limited common elements, whether or no expressly referred to in the instrument effecting the same.

(c) The common elements and limited common elements shall remain undivided from the condominium property and shall not be the object of an action for partition or division unless the condominium property is removed from the provisions of this chapter as provided in Section 20. Nothing in this chapter shall be construed as a limitation on partition of individual interests in a unit or units by co-owners of such unit or units.

(d) The undivided interest of each unit owner in the common elements and limited common elements or the method for determining such interests shall be as set forth in the declaration and shall not thereafter be changed unless the owners of record of the units affected thereby, and the holders of record of any liens thereon, shall have agreeed to an amendment to the declaration which specifies such change. Such agreement may be made either in advance of or at the time of such amendment. The amended declaration shall be duly recorded.

Section 7. Establishment of Condominium Property. Condominium property shall be established by recording a properly executed declaration as set forth in Section 11 of this chapter. A declaration shall be executed with the formalities of a deed to real property. It shall be executed by all persons having title of record or lien interests of record to such real property, not including mineral interests, royalty interests, rights of way and easements. In addition to such other provisions as may be desired, not inconsistent with this act, the declaration shall contain:

(a) A statement submitting the property described to the provisions of this chapter;

(b) The name by which the condominium is to be identified, which name shall include the word "condominium" or be followed by the words "a condominium";

(c) A legal description of the land included;

(d) Plans or other graphic or narrative description of the property in sufficient detail to identify common elements, limited common elements and private elements;

(e) The undivided interest assigned to each unit in the com-

mon elements and limited common elements or the method for determining such interests;

(f) The voting rights, or the method of determining such rights, of the unit owners, with respect to matters arising out of ownership of the common elements which rights must correspond approximately with each unit owner's undivided interest in such common elements;

(g) The voting rights, or the method of determining such rights, of the unit owners with respect to matters arising out of ownership of the limited common elements, which rights must correspond approximately with each unit owner's undivided interest in such limited common elements;

(h) The proportion, or method for determining such proportion, of common expenses to be shared by each unit owner, which proportion must correspond approximately to each owner's undivided interest in the common elements;

(i) The proportion, or method of determining such proportion, of limited common expenses to be shared by each unit owner, which proportion must correspond approximately to each unit owner's undivided interest in the limited common elements;

(j) The proportion, or method of determining such proportion, of common surplus to be shared by each unit owner, which proportion must correspond approximately to each unit owner's undivided interest in the common elements;

(k) The proportion, or method for determining such proportion, of limited common surplus to be shared by each unit owner, which proportion must correspond approximately to to each unit owner's undivided interest in the limited common elements;

(l) The name of the association and whether incorporated or unincorporated;

(m) Such covenants and restrictions concerning the use, occupancy and transfer of units as may be desired, including the right of first refusal on the part of the association and its individual members, the type of independent use permitted for individual units, and such other covenants and restrictions as are permitted by law with reference to real property; provided, however, that the rule of property known as the rule against perpetuities shall not be applied to defeat a right given any person or entity by the declaration for the purpose of allowing unit owners to retain reasonable control over the use, occupancy and transfer of units, such provisions of the declaration shall be enforceable equitable servitudes and shall run

with the land and shall be effective until the declaration is revoked or the provisions amended;

(n) The method of amending the declaration, which shall require recording of any such amendment before it shall become effective, but in no case shall any amendment change a unit unless the owner of record of such unit and the holders of record of any liens thereon shall have agreed to such amendment either at the time of such amendment or in advance of such amendment.

Section 8. Unit Deeds and Other Instruments.

(a) Prior to the conveyance of any unit, plans or other graphic description, certified by a licensed or registered engineer or architect, in sufficient detail to identify the common elements, limited common elements and private elements comprising such unit as built, shall be recorded as a part of the declaration or as an amendment thereto. Such unit shall be identified by assigning a distinctive letter, number or other means of identification by which it may be separately identified from the other units. Where the plans or other graphic description of two or more elements of any unit or units are identical, a single plan or other graphic description of such elements shall be sufficient to satisfy the requirements of this chapter.

(b) Prior to the conveyance of any unit, a copy of the bylaws and any amendments thereto shall be recorded in the same public records as the declaration and amendments thereto.

(c) A deed, mortgage, lease or other instrument pertaining to a unit shall have the same force and effect in regard to such unit as would be given to a like instrument pertaining to other real property which has been similarly made, executed, acknowledged and recorded. In addition to such other matters as may be desired, not inconsistent with this chapter or the declaration, a unit deed shall contain the following:

(1) The name of the condominium property as set forth in the declaration.

(2) The name of the county or counties in which the condominium property is located.

(3) The distinctive unit identification required by paragraph (a) of this section together with a reference to the recording office and the book and page where the declaration and bylaws and amendments thereto are recorded.

(4) A statement of the proportionate undivided interests in the common elements and limited common elements assigned

to such unit or the method for determining such interests as set forth in the declaration of any amendments thereto.

Section 9. Administration and Management. The association provided for by the declaration shall be responsible for the administration and management of the condominium property in accordance with this chapter, the declaration and the bylaws. The association may be incorporated or unincorporated. All unit owners will be stockholders or members. Unless otherwise provided in the declaration, the association, acting through its officers or governing board, shall have the powers enumerated below.

(a) The association may maintain, repair, replace, clean and sanitize the common and limited common elements.

(b) The association may assess and collect funds and may pay for common expenses and limited common expenses out of such funds as appropriate.

(c) In addition to the enforcement of the covenants and restrictions concerning use, occupancy and transfer of units which are included in the declaration pursuant to Section 7 of this chapter, the association may adopt, distribute, amend and enforce reasonable rules governing the administration and management of the condominium property and the use of the common and limited common elements.

(d) Maintain all forms of insurance coverage which are for the benefit of the unit owners. The amount of each unit owner's liability for payment of premiums for such insurance shall be a part of his common expense or limited common expense as appropriate. The association shall appraise each unit owner whether or not insurance coverage is maintained by the association and the type and amount of any insurance which is so maintained. An insurance trustee or trustees may be appointed to administer the proceeds of any such insurance. No unit owner or other person having an insurable risk may be precluded from obtaining insurance, individually, at his own expense and for his own benefit, against any risk, whether or not covered by insurance maintained by the association. Such forms of insurance maintained by the association may include but are not limited to the following:

(1) Insurance covering the entire condominium property against loss by fire and such other hazards as may be desired.

(2) Liability insurance against any risk, such as death, personal injury or damage to property, faced by unit owners by virtue of their common or limited common ownership in the condominium property, including but not limited to the

acts and omissions of the association, its servants and employees.

(e) The association may have access to each unit from time to time during reasonable hours as may be necessary for the maintenance, repair, or replacement of any common elements or limited common elements therein or accessible therefrom or for making emergency repairs necessary to prevent damage to any other unit or units.

(f) The association may purchase units in the condominium and otherwise acquire, hold, lease, mortgage and convey the same. It may also lease or license the use of common elements and limited common elements in a manner not inconsistent with the rights of unit owners.

(g) The association may acquire or enter into agreements whereby it acquires personal property, real property, leaseholds, memberships or other possessory or use interests in lands or facilities including, but not limited to country clubs, golf courses, marinas and other recreational facilities intended for the use or benefit of the unit owners. No unit shall be changed except by amendment to the declaration and no unit owner shall be charged with any cost or expense of such acquisition or any portion of the cost of expense of the administration, management, repair or replacement thereof, or have any liability in connection therewith, without such unit owner's express consent.

(h) The Association may enter into agreements by which its powers and responsibilities or some of them may be exercised or performed by some other person or persons.

Section 10. Bylaws. The bylaws govern the administration and management of the condominium property by the association. In addition to such other provisions as may be desired, not inconsistent with this chapter or the declaration, the bylaws shall contain:

(a) The form of administration, indicating the titles of the officers and governing board of the association, if any, any, and specifying the powers, duties, and manner of selection, removal and compensation, if any, of officers and board members.

(b) The name and residence address of the person designated as agent to receive service of process upon the association if the association is not incorporated. Such agent must be a resident of this state.

(c) The method of calling meetings of unit owners, the percentage of unit owners or voting rights required to make

decisions regarding administration and management of the condominium property and to constitute a quorum, but such bylaws may nevertheless provide that unit owners may waive notice of meetings or may act by written agreement without meetings.

(d) Provision for the maintenance of accounting records, in accordance with generally accepted accounting principles, open to inspection by unit owners at reasonable times. Such records shall include:

(1) A record of all receipts and expenditures.

(2) An account for each unit, setting forth any shares of common expenses or limited common expenses or other charges due, the due dates thereof, the present balance due, and any interest in common surplus or limited common surplus.

(e) The method of amending the bylaws, which shall require recording of any such amendment before it shall become effective. Such method need not be the same as that used for amendment of the declaration.

Section 11. Recordation. The declaration and any amendments thereto, the bylaws and any amendments thereto, and all deeds, mortgages, liens and other such documents and instruments relating to the condominium which are required to be recorded shall be recorded in the county or counties where the real property is located.

Section 12. Liability, Suits and Service of Process.

(a) Neither the association or any unit owner shall be liable for the individual acts or omissions of any other unit owner.

(b) All suits seeking liability of unit owners arising by virtue of their condominium ownership and who are not liable by reason of any act or omission on their own part shall be directed against the association and defended by the association. Where plaintiff's demand exceeds unit owner insurance established by the association, such unit owner must be given notice by the association and shall have the right at his own expense to individual representation by counsel.

(c) A unit owner, not liable by reason of any act or omission on his own part, shall have no liability for any settlement, judgement or cost of defense incurred by the association with relation to limited common elements in which he has no interest.

(d) A unit owner shall be liable for no more than a pro rata share of any settlement, judgement or cost of defense

incurred by the association. Where liability arises with relation to common elements or limited common elements in which a unit owner has an interest, such pro rata share shall be based on such interest. Where liability arises with relation to private elements such pro rata share shall be based on the relation that the value of such unit owners private element bears the value of all private elements. In no event may such pro rata share exceed the value of such unit owner's interest in the condominium. Unpaid portions of a judgement which has been so pro rated shall not be reassessed among remaining unit owners should those held liable fail to pay.

(e) A unit owner shall be liable for acts or omissions on his own part in the same manner and to the same extent as any other owner of property.

(f) No unit owner, except as an officer of the association, shall have any authority to act for or obligate the association.

(g) Failure of a unit owner to comply with the covenants and restrictions set forth in the declaration or in deeds of units, or to comply with the bylaws, shall be grounds for an action for the recovery of damages or for injunctive relief or both maintainable by the association or by any other unit owner or by any person who holds a lien of record upon a unit and is aggrieved by any such noncompliance.

(h) Whether incorporated or unincorporated, the association shall act through its officers and may enter into contracts, bring suit and be sued. If the association is unincorporated, process may be served upon the association by serving any officer of the association or by serving the agent designated in the bylaws for service of process. Service of process upon any member of the association shall not constitute service of process upon the association.

(i) A unit owner shall have the capacity to sue the association and other unit owners who may be liable by reason of any act or omission on their own part, in tort as if he were a member of the public, and such suit shall not be barred on the ground that the plaintiff is a co-owner. Such suit shall be at the expense of such plaintiff unit owner, and he shall nevertheless be required to pay any pro rata cost of defense, settlement or judgment of such suit which may be assessed against unit owners by the association.

Section 13. Common Expenses and Limited Common Expenses. The common expenses and limited common expenses shall be charged to unit owners in such amount that the charge corresponds approximately to their respective undivided inter-

ests in the common elements and limited common elements as set forth or determined by the declaration and amendments thereto. The amount of such expenses charged to each unit shall be a lien against such unit subject to the provisions of Section 17 of this act. A unit owner shall by acceptance of title, be conclusively presumed to have agreed to pay his proportionate share of such expenses accruing while he is the owner of a unit. However, the liability of a unit owner for such expenses shall be limited to amounts duly assessed in accordance with this chapter, the declaration and bylaws. No unit owner may exempt himself from liability for his share of such expenses arising out of common elements and limited common elements in which he has an interest by waiver of the enjoyment of the right to use any of the common elements, or limited common elements or by abandonment of his unit or otherwise. Such expenses charged to any unit shall bear interest from the due date set by the association. The interest rate, not to exceed the legal interest rate, may be established by the association, or if no rate is so established, it shall be the legal rate.

Section 14. Prohibited Work. There shall be no material alteration of or substantial addition to the common elements or limited common elements except as authorized by the declaration. No unit owner shall contract for or perform any maintenance, repair, replacement, removal, alteration or modification of the common elements, or limited common elements, or any additions thereto, except through the association and its officers. No unit owner shall take or cause to be taken any action within his unit which would jeopardize the soundness or safety of any part of the condominium property or impair any easement or right of any unit owner or affect the common elements, or limited common elements, without the unanimous consent of all unit owners who might be affected thereby.

Section 15. Taxes. All property taxes, special assessments and other charges imposed by any taxing authority shall be separately assessed against and collected on each unit as a single parcel, and not on the condominium property as a whole. Such taxes, assessments and charges shall constitute a lien only upon the unit and upon no other portion of the condominium property. All laws authorizing exemptions or deductions from taxation shall be applicable to each individual unit to the same extent they are applicable to other property. The total of the assessments for tax purposes against the aggregate of all units constituting the condominium property shall not exceed the assessment which would otherwise have been made against such condominium property as a single parcel had it not been submitted to this chapter.

Section 16. Liens for Labor or Materials.

(a) Except as otherwise provided in Section 18, subsequent to recording the declaration as provided in this act, and while the property remains subject to this act, no lien shall arise or be effective against the condominium property as a whole. During such period, liens or encumbrances shall arise or be created only against each unit in the same manner and under the same conditions in every respect as liens or encumbrances may arise or be created upon or against any other separate parcel of real property subject to individual ownership; provided that no labor performed or materials furnished with the consent or at the request of a unit owner or his agent or his contractor or subcontractor, shall be the basis for the filing of a lien against the unit or any other property of any other unit owner not expressly consenting to or requesting the same, except that such express consent shall be deemed to be given by the owner of any unit in the case of emergency repairs thereto. Labor performed or materials furnished for the common elements and limited common elements, if duly authorized by the association in accordance with this chapter, the declaration or bylaws, shall be deemed to be performed or furnished with the express consent of each unit owner benefited by such labor or materials and shall be the basis for the filing of a lien pursuant to the lien laws against each of the units so benefited and shall be subject to the provisions of subparagraph (b) hereunder.

(b) In the event a lien against two or more units becomes effective, the owner of each separate unit may remove his unit from the lien and obtain a discharge and satisfaction by payment of the proportion thereof attributable to such unit. The proportion so attributable to each unit subject to the lien shall be the proportion in which all units subject to the lien share among themselves in liability for common expenses or limited common expenses as appropriate. Subsequent to any such payment, the lien on such unit shall be discharged or otherwise satisfied of record and the unit shall thereafter be free and clear of such lien. Such partial payment discharge and satisfaction shall not prevent the lienor from proceeding to enforce his rights against any other unit not so paid, satisfied or discharged.

Section 17. Liens in Favor of Association. The association shall have a lien on each unit for any unpaid assessment duly made by the association for a share of common expenses, limited common expenses or otherwise, together with interest thereon and, if authorized by the declaration or bylaws, reasonable attorney's fees. Such lien shall be effective from and after the time of recording in the public records of the county

in which the unit is located of a claim of lien stating the description of the unit, the name of the record owner, the amount due and the date when due. Such claim of lien shall include only sums which are due and payable when the claim of lien is recorded and shall be signed and verified by an officer or agent of the association. Upon full payment of all sums secured by the lien, the party making payment shall be entitled to a recordable satisfaction of lien. All such liens shall be subordinate to any lien for taxes, the lien of any mortgage of record and any other lien recorded prior to the time of recording of the claim of the association's lien.

(a) Upon any voluntary conveyance of a unit, the grantor and grantee of such unit shall be jointly and severally liable for all unpaid assessments pertaining to such unit duly made by the association or accrued up to the date of such conveyance without prejudice to the right of the grantee to recover from the grantor any amounts paid by the grantee, but the grantee shall be exclusively liable for those accruing while he is the unit owner.

(b) Any unit owner or any purchaser of a unit prior to completion of a voluntary sale may require from the association a certificate showing the amount of unpaid assessments pertaining to such unit and the association shall provide such certificate within 10 days after request therefor. The holder of a mortgage or other lien on any unit may request a similar certificate with respect to such unit. Any person other than the unit owner at the time of issuance of any such certificate who relies upon such certificate shall be entitled to rely thereon and his liability for such unpaid assessments shall be limited to the amounts set forth in such certificate.

(c) If a holder of a first lien of record or other purchaser of a unit obtains title to such unit as a result of foreclosure of the first lien, such acquirer of title, his successors and assigns shall not be fully liable for the share of common expenses, limited common expenses or other assessments by the association pertaining to such unit or chargeable to the former unit owner which became due prior to acquisition of title as a result of the foreclosure. Such unpaid share of common expenses, limited common expenses or other assessments shall be deemed to be common expenses or limited common expenses collectable from all of the remaining unit owners including such acquirer, his successors and assigns.

(d) Liens for unpaid assessments may be foreclosed by suit brought in the name of the association in the same manner as a foreclosure of a mortgage on real property. The association shall have the power, unless prohibited by the declaration or bylaws to bid in the unit at foreclosure sale, and to

acquire, hold, lease, mortgage and convey the same. Suit to recover a money judgment for unpaid assessments may be maintained without waiving the lien securing the same.

Section 18. Blanket Mortgage. Notwithstanding any other provision of this chapter, if the declaration or bylaws so permit, the entire condominium property or some or all of the units included therein may be subject to a single or blanket mortgage constituting a first lien thereon created by recordable instrument by all of the owners of the property or units covered thereby; and any unit included under the lien of such mortgage may be sold or otherwise conveyed or transferred subject thereto. The instrument creating any such mortgage shall provide a method whereby any unit owner may obtain a release of his unit from the lien of such mortgage and a satisfaction and discharge in recordable form upon payment to the holder of the mortgage of a sum equal to the proportionate share attributable to his unit of the then outstanding balance of unpaid principal and accrued interest and any other charges then due and unpaid. Such proportionate share attributable to each unit shall be the proportion in which all unit owners whose units are then subject to the lien of the mortgage own among themselves the common elements and limited common elements as provided in the declaration, and the private elements, or such other reasonable proportion as shall be specifically provided in the mortgage instrument. Such mortgage may contain provisions for converting such mortgage to individual mortgages on the individual units included therein. In the event of such conversion the mortgage on the individual units shall be entitled to recordation without the payment of the mortgage tax provided for by Code of Alabama 1940, Title 51, Section 619 (Recomp. 1958).

Section 19. Mortgage Investments on Codominium Property or Units Thereof. All persons, as defined in Section 2(k) of this chapter, including but not limited to insurance companies, banking organizations, mortgage companies and savings and loan associations, may be permitted to invest in bonds, notes and evidences of indebtedness which are secured by mortgages or deeds of trust upon condominium property or units thereof wherever such persons may invest, and subject to all of the rules and limitations applicable to such investment, in bonds, notes and evidences of indebtedness which are secured by like instruments of the same priority upon real property. Where the applicable limitations are dependent upon the type of use of the real property, only the type of use of the particular unit or units which constitute the security for such investment shall be taken into consideration for the purpose of such limitations.

Section 20. Termination of a Condominium.

(a) The condominium property may be removed from the provisions of this act provided that all unit owners agree and all holders of record of liens affecting any of the units consent or agree, in either case by instruments duly recorded, that their liens be transferred to the undivided share of the unit owner in the property as hereinafter provided.

(b) A court of equity may grant the petition of any unit owner for a removal of the condominium property from the provisions of this act and a partition under the following circumstances:

(1) In the event of total destruction of all improvements of the condominium property and no agreement is reached to rebuild such improvements within a reasonable time, or such rebuilding has not been completed within a reasonable time.

(2) In the event of substantial destruction, deterioration or obsolescence of the condominium property and no agreement is reached to repair, reconstruct or rebuild such property within a reasonable time, or such repair, reconstruction or rebuilding has not been completed within a reasonable time, and at least a majority of votes of unit owners shall be cast in favor of such removal.

(c) Upon removal of the condominium property from the provisions of this chapter, the property shall be deemed to be owned in common by those who were unit owners at the time of such removal. The undivided share in the property owned in common by each such owner with respect to the previous common elements shall be the undivided interest previously owned by such owner in the previous common elements. The undivided share in the property owned in common by each such owner with respect to the previous limited common elements shall be the undivided interest previously owned by each such owner in the previous limited common elements. The undivided share in the property owned in common by each such owner with respect to the previous private elements may be determined by an appraisal of all previous private elements and a computation of the relation that the value of each such owner's previous private elements bears to the value of all previous private elements, or such other reasonable method of determination as the declaration may provide. Under no circumstances shall anyone other than the owner of a unit at the time of removal be entitled to the use of any previous element of such previous unit subsequent to the removal of the condominium property from the provisions of this chapter and prior to the sale of such previous element.

(d) After termination of a condominium in any manner, the liens upon the previous units shall be upon the respective undivided interests of the owners as tenants in common.

(e) The termination of a condominium shall not bar the creation of another condominium affecting all or part of the same property.

Section 21. Zoning and Building. All laws, ordinances and regulations concerning buildings or zoning shall be construed and applied with reference to condominium property for dwelling purposes in the same manner as to other multi-family dwelling projects and developments of similar nature and use without regard to the form of ownership. No law, ordinance or regulation shall establish any requirement concerning the use or location, placement or construction of other buildings or other improvements which are, or may thereafter be subjected to the condominium form of ownership, unless such requirement shall be equally applicable to all buildings and improvements of the same kind not then or thereafter to be subjected to the condominium form of ownership.

Section 22. Liberal Construction. Notwithstanding a finding that this statute is in derrogation of the common law, it should be liberally construed to effectuate its purpose of encouraging development and construction of condominium property under the provisions of this chapter.

Section 23. Severability clause: If for any reason, any section, paragraph, provision, clause or other part of this Act shall be held unconstitutional or invalid, the fact shall not invalidate any other section, paragraph, provision, clause or other part of this Act in and of itself constitutional and valid, and the remaining parts thereof shall be in force without regard to that so held unconstitutional or invalid.

Section 24. Repeal and Savings Clause. Act No. 206, approved September 1, 1964, entitled "An act to provide for the creation of apartment ownership, and to prescribe regulations therefor," (Acts of Alabama 1964 Special Session, pp. 266-277), presently codified in Code of Alabama 1940, Title 47, Sections 286-313 (Recomp. 1958), is hereby specifically repealed. Notwithstanding such repeal, every instrument or agreement made under said Act No. 206 and in force immediately before the commencement of this Act, until such instrument or agreement may be altered, revoked or otherwise modified under this Act, shall continue in full force and effect.

Section 25. Effective Date. This Act shall become effective immediately upon its passage by the Legislature and approval by the Governor or its otherwise becoming a law.

Approved September 17, 1973.

Time: 4:00 P.M.

Act No. 1060 H. 845—Harris

AN ACT

Relating to the Fifteenth Judicial Circuit; to provide for additional Circuit Judge in such Circuit; defining his jurisdiction, powers, right and authority; his qualifications and duties; to set his compensation and providing for the appointment of a bailiff and court reporter.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby created an additional judgeship for the Fifteenth Judicial Circuit, which shall be designated Judgeship Number 4. The additional Judge shall be appointed for the Circuit by the Governor, within ten days after the effective date of this Act, who shall hold office until his successor is elected and qualified at the next general election for any State office. The Judge so elected shall hold office until the next general election for Circuit Judges. At the first general election for Circuit Judges held after the election of the first Judge to fill the judgeship hereby created and every six years thereafter, a Judge shall be elected to fill such judgeship at the same election as other Circuit Judges of the Fifteenth Judicial Circuit.

Section 2: The Judge appointed or elected as provided in Section 1 of this Act shall have and shall exercise all the jurisdiction, power, right and authority; shall possess all of the qualifications; shall perform all of the duties required; and shall be subject to all of the pains and penalties of such office as the other such Circuit Judges are subject to.

Section 3: The compensation of such Judge shall be the same as and paid under the same terms and manner as that of other Circuit Judges in the Fifteenth Judicial Circuit.

Section 4: The Judge may appoint a bailiff and a court reporter whose qualifications, powers, duties, and authorities shall be the same as such other bailiffs and reporters of the Fifteenth Judicial Circuit and whose compensation shall be the same as and paid under the same terms and manner as other bailiffs and reporters of the Fifteenth Judicial Circuit.

Section 5: The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part that remains.

Section 6: All laws or parts of laws which conflict with this Act are repealed.

Section 7: This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved September 17, 1973.

Time: 4:30 P.M.

Act No. 1061 H. 1258—Stubbs, Wynot, Headley, Burgess, Lyons, Drake, Robertson, Grainger, Williams, Bowers, Waggoner, Easters, Therrell, Reid (R), Carnes, Grey (D), Goodwin, Waldrop, Downing

AN ACT

To amend Section 8, Title 26, Chapter 1, Code of Alabama 1940, as last amended, relating to the pay for members of the Board of Appeals of the Department of Industrial Relations.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 8, Title 26, Chapter 1, Code of Alabama 1940, as last amended, is hereby amended to read:

"§ 8. Board of Appeals.—There shall be a board of appeals for the Department of Industrial Relations. The Board of Appeals shall exercise its own judgement and discretion in all matters entrusted to it, and, to that extent, shall be entirely separate and distinct from and independent of the Department of Industrial Relations, but it shall have offices with the Department of Industrial Relations, and an employee of the Department of Industrial Relations shall act as its clerk. All proper expenses of the Board of Appeals shall be paid from the appropriations to the Department of Industrial Relations in the same manner as expenses of the department are paid. There shall be three members of the Board of Appeals, all of whom shall be appointed by the governor, subject to confirmation by the senate, for a term of office of six years, or until their successors are appointed, except that the first appointments of members of the Board of Appeals shall be for terms of two, four and six years respectively. One member of the board shall be a person who, on account of his previous employment or affiliations, shall be generally classified as a representative of employers. One member of such board shall be a person who, on account of his previous employment or affiliations, shall be

generally classified as a representative of employees. One member of the board shall represent the interest of the public, shall not be generally classified as a representative of employers or of employees, and the member representing the public shall be the chairman of the Board of Appeals. Before entering upon the discharge of his duties, each member of the Board of Appeals shall take the constitutional oath of office. No member of the Board of Appeals shall be employed by the federal government or the state. Members of the Board of Appeals shall receive no salary but shall be paid for each day or part thereof necessarily spent in the discharge of their official duties, including travel time, an amount to be agreed upon by the director of Industrial Relations and the governor, the same not to exceed fifty dollars per day, however, (1) the sum total to be paid to the chairman in the first six months of any calendar year shall not exceed $3,000 with a like maximum sum total of $3,000 in the last six months of any calendar year, plus actual travel allowance; (2) the sum total to be paid to each of the other members of the board in the first six months of any calendar year shall not exceed $2,100, with a like maximum sum total of $2,100 in the last six months of any calendar year, plus actual travel allowance. Members of the Board of Appeals shall be subject to impeachment as are other state officers. Vacancies for any reason shall be filled by appointment by the governor for the unexpired term, and any appointments made while the senate is not in regular session shall be effective ad interim. No member of the Board of Appeals shall hear or determine an appeal in any case in which he is (a) directly interested party. The Board of Appeals shall not hear or determine any appeal unless each of the three members thereof or their alternates are present. The governor shall immediately whenever it is shown to his satisfaction that a member of the Board of Appeals is disqualified for any reason or cannot attend a session of the Board of Appeals, appoint an alternate or alternates for the member or members so disqualified or absent."

Section 2. This act to take effect upon its passage and approval by the governor or its otherwise becoming law.

Approved September 17, 1973.

Time: 3:25 P.M.

Act No. 1062 H. 1273—Stubbs, Lyons, Drake, Robertson, Reid (R), Fite, Doss, Williams, Burgess, Headley, Naramore, Boles, Bowers, Wallace, Crowe, Erdreich, Boutwell

AN ACT

To amend Section 257, subsection (d) of Sections 263, 269, 270, 271, 273, 277, 279, 280, 283, 285, 286, 289, 292, 293, 301, paragraphs (2), (4) and (5) of Section 309, Sections 312 and 324, all being of Chapter 5, Title 26, Code of Alabama 1940, as last amended, Sections 4, 6, and 12 of Act No. 180, adopted at the 1951 Regular Session of the Legislature of Alabama, as last amended, Sections 3, 5, and 11 of Act No. 521, adopted at the 1967 Regular Session of the Legislature of Alabama, as last amended, and Sections 3, 5, and 11 of Act No. 668, adopted at the 1971 Regular Session of the Legislature of Alabama, as last amended, and to repeal Sections 255, 256, 274, 275, 276, all being of Chapter 5, Title 26, Code of Alabama 1940, as last amended, Sections 5 and 8 of Act No. 180, adopted at the 1951 Regular Session of the Legislature of Alabama, as last amended, Sections 4 and 7 of Act No. 521, adopted at the 1967 Regular Session of the Legislature of Alabama, as last amended, and Sections 4 and 7 of Act No. 668, adopted at the 1971 Regular Session of the Legislature of Alabama, as last amended, relating to providing compulsory coverage of subject employers and employees, extending coverage to common carriers but specifying certain persons not to be employees of common carriers, allowing elective coverage of farmers, extending the presumption of dependency to include husbands, increasing the maximum and minimum weekly compensation payable, extending the maximum number of weeks payable for permanent total disability and for death, increasing the amount payable for burial expense, reducing the number of days of disability required before compensation is payable for the waiting period, providing for a penalty for late payments of compensation, increasing medical benefits and extending the period during which such benefits are payable, specifying coverage of physical rehabilitation as a medical benefit, providing for a change of physician under certain circumstances, increasing the basis of calculation whereby an employer may be discharged from the payment of future installments of compensation, providing for additional reports to be filed with the Department of Industrial Relations, authorizing the Director of Industrial Relations to require self-insured employers to post bond or securities and to prescribe other rules and regulations regarding self-insurance, providing for the applicability of and effect of Articles 1, 2 and 3 of Chapter 5, Title 26, Code of Alabama 1940, as amended, providing for penalties for the failure to secure compensation liability and for failure to file reports, permitting the parties to agree as to the intervals at which certain benefits shall be paid, and appropriating $47,000 for the fiscal year beginning October 1, 1973, and ending September 30, 1974, and $46,000 for the fiscal year beginning October 1, 1974, and ending September 30, 1975, out of the general fund of the State Treasury to the Department of Industrial Relations for carrying out the purpose of this Act, all relating to the Workmen's Compensation Law, Articles 1, 2, 2A, 2B, 2C, and 3 of Chapter 5 of Title 26 of the Code of Alabama 1940, as last amended, pertaining to compensation of employees by employers for job-related injuries and certain illnesses and diseases.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 255, Title 26, Code of Alabama 1940, as last amended, relating to when defenses excluded, is hereby repealed.

Section 2. Section 256, Title 26, Code of Alabama 1940, as last amended, relating to when defenses available, is hereby repealed.

Section 3. Section 257, Title 26, Code of Alabama 1940, as last amended, is hereby amended to read as follows:

Section 257. Death and personal injury claims. — The provisions of the two preceding sections shall apply to any claims for death of an employee as covered by sections 119 and 123 of title 7 and section 328 of this title, and to personal injuries arising under section 118 of title 7 and section 326 of this title.

Section 4. Subsection (d) of Section 262, Title 26, Code of Alabama 1940, as last amended, is hereby amended to read as follows:

(d) The term "employer" as used herein shall mean every person not excluded by Section 263 of this title who employs another to perform a service for hire and to whom the "employer" directly pays wages, and shall include any person or corporation, co-partnership, or association, or group thereof, and shall, if the employer is insured, include his insurer, as far as applicable, and shall not include one who regularly employs a number less than four in any business; **however not withstanding any section of articles 1 and 2 of this** chapter, in no event shall a common carrier by motor vehicle operating pursuant to a certificate of public convenience and necessity be deemed the "employer" of a leased-operator or owner-operator of a motor vehicle or vehicles under contract to such a common carrier.

Section 5. Section 263, Title 26, Code of Alabama 1940, as last amended, is hereby amended as follows:

Section 263. Articles 1 and 2 of chapter not applicable to certain employments. — Articles 1 and 2 of this chapter shall not be construed or held to apply to domestic servants, to farm laborers whose employers have not filed an election to become subject to this act, or to persons whose employment at the time of the injury is casual, and not in the usual course of the trade, business, profession or occupation of the employer, or to any employer, who regularly employs less than four employees in any one business or to any county, city, town, village or school district. Any employer who regularly employs less than four employees in any one business, any farmer, or any county, city, town, village or school district may accept the provisions of articles 1 and 2 of this chapter by filing written notice thereof with the Department of Industrial Relations, a copy thereof to be posted at the place of business of said employer and provided further, that any employer who has so elected to accept the provisions of articles 1 and 2 of this chapter may at any time withdraw the acceptance by giving like notice or withdrawal.

Section 6. Section 269, Title 26, Code of Alabama 1940, as last amended, is hereby amended to read as follows:

Section 269. Supplementary reports. In all cases, upon making the first payment of compensation, and upon cessation or termination of payment of compensation, for any reason whatever, the employer shall make a supplementary report within ten days to the department of industrial relations on forms approved by said department. If the first installment of compensation is not paid within thirty days after the employer has knowledge of a claim for compensation, the employer shall file a report within ten days of the expiration of the thirty day period setting out the reason for such nonpayment with the department of industrial relations on forms approved by said department.

Section 7. Section 270, Title 26, Code of Alabama 1940, as last amended, is hereby amended to read as follows:

Section 270. Right to compensation. — When an employer is subject to this article, compensation, according to the schedules hereinafter contained, shall be paid by every such employer, or those conducting the business during bankruptcy or insolvency, in every case of personal injury or death of his employee caused by an accident arising out of and in the course of his employment, without regard to any question of negligence, except no compensation shall be allowed for an injury or death caused by the wilful misconduct of the employee or by the employee's intention to bring about the injury or death of himself or of another, or due to his own intoxication or his wilful failure or wilful refusal to use safety appliances provided by the employer, or due to the wilful refusal or wilful neglect of the employee or servant to perform a statutory duty or due to any other wilful violation of the law by the employee or his wilful breach of a reasonable rule or regulation of his employer, of which rule or regulation the employee has knowledge. If the employer defends on the ground that the injury arose in any or all of the last above stated ways, the burden of proof shall be on the employer to establish such defense.

Section 8. Section 271, Title 26, Code of Alabama 1940, as last amended, is hereby amended to read as follows:

Section 271. Surrender of other rights. — No employee of any employer subject to this article, nor the personal representative, surviving spouse or next of kin of any such employee, shall have any right to any other method, form, or amount of compensation or damages for any injury or death occasioned by any accident proximately resulting from and while engaged in the actual performance of the duties of his

employment, and from a cause originating in such employment or determination thereof than as provided in this article.

Section 9. Section 273, Title 26, Code of Alabama 1940, as last amended, is hereby amended to read as follows:

Section 273. Presumption as to acceptance of provisions of articles. — All contracts of employment made on or after the effective date of this act shall be presumed to have been made with reference to and subject to the provisions of this article. All contracts of employment made prior to, and existing on, the effective date of this act, shall be presumed to continue from and after the effective date of this act, subject to and under the provisions of this article. Every employer and employee, except as otherwise specifically provided herein, shall be presumed to have accepted and come under this article and the provisions thereof relating to the payment and acceptance of compensation.

Section 10. Section 274, Title 26, Code of Alabama 1940, as last amended, relating to employer's notice, is hereby repealed.

Section 11. Section 275, Title 26, Code of Alabama 1940, as last amended, relating to employee's notice; recordation of employer's and employee's notices; presumptive evidence, is hereby repealed.

Section 12. Section 276, Title 26, Code of Alabama 1940, as last amended, relating to either party may terminate agreement, is hereby repealed.

Section 13. Section 277, Title 26, Code of Alabama 1940, as last amended, is hereby amended to read as follows:

Section 277. Minors. — Minors shall, for the purposes of this article, have the same power to contract, make settlements, and receive compensation, as adult employees, subject to the power of the court, in its discretion at any time to require the appointment of a guardian to make such settlement and to receive moneys thereunder or under an award, and payments of awards made to such minors or their guardians shall exclude any further compensation either to the minors or to their parents for loss of services or otherwise.

Section 14. Section 279, Title 26, Code of Alabama 1940, as last amended, is hereby amended to read as follows:

Section 279. Schedule of compensation. — Following is the schedule of compensation:

(A) Temporary Total Disability.

For injury producing temporary total disability, sixty-six and two-thirds percent of the average weekly earnings

received at the time of injury, subject to a maximum and minimum weekly compensation as stated in section 289 of this title; but if at the time of injury the employee received average weekly earnings of less than the minimum stated in section 289 of this title, then he shall receive the full amount of such average weekly earnings per week. This compensation shall be paid during the time of such disability, not, however, beyond three hundred weeks. Payments are to be made at the intervals when the earnings were payable, as nearly as may be, unless the parties otherwise agree.

(B) Temporary Partial Disability.

1. In general.

In all cases of temporary partial disability the compensation shall be sixty-six and two-thirds percent of the difference between the average weekly earnings of the workman at the time of the injury and the average weekly earnings he is able to earn in his partially disabled condition. This compensation shall be paid during the period of such disability, not however, beyond three hundred weeks, payments to be made at the intervals when the earnings were payable, as nearly as may be, unless the parties otherwise agree and subject to the same maximum weekly compensation as stated in section 289 of this title.

2. When partially disabled employee leaves first employment.

If the injured employee who is receiving such compensation for temporary partial disability should leave the employment of the employer by whom he was employed at the time of the accident for which such compensation is being paid, he shall, upon securing employment elsewhere, give to such former employer an affidavit in writing containing the name of his new employer, the place of employment, and the amount of wages being received at such new employment, and until he gives such affidavit, the compensation for temporary partial disability shall cease. The employer by whom such employee was employed at the time of the accident for which such compensation is being paid may also at any time demand of such employee additional affidavit, in writing, containing the name of his employer, the place of his employment, and the amount of wages he is receiving, and if the employee, upon such demand, fails or refuses to make and furnish such affidavit, his right to compensation for temporary partial disability shall cease until such affidavit is made and furnished.

(C) 1. Permanent Partial Disability.

For permanent partial disability the compensation shall

be based upon the extent of such disability. In cases included in the following schedule the compensation shall be sixty-six and two-thirds percent of the average weekly earnings, during the number of weeks set out in the following schedule:

For the loss of a thumb, sixty-two weeks.

For the loss of a first finger, commonly called index finger, forty-three weeks.

For the loss of a second finger, thirty-one weeks.

For the loss of a third finger, twenty-two weeks.

For the loss of a fourth finger, commonly called little finger, sixteen weeks.

The loss of the first phalange of the thumb, or of any finger, shall be considered as equal to the loss of one-half of such thumb, or finger, and compensation shall be paid at the prescribed rate during one-half of the time specified above for such thumb or finger.

The loss of two or more phalanges shall be considered as the loss of the entire finger or thumb; but in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.

For the loss of a great toe, thirty-two weeks.

For the loss of any of the toes other than the great toe, eleven weeks.

The loss of the first phalange of any toe shall be considered to be equal to the loss of one-half of such toe, and compensation shall be paid at the prescribed rate during one-half the time prescribed above for such toe.

The loss of two or more phalanges shall be considered as the loss of entire toe.

For the loss of a hand, one hundred seventy weeks.

For the loss of an arm, two hundred twenty-two weeks.

For the loss of a foot, one hundred thirty-nine weeks.

Amputation between the elbow and wrist shall be considered as the equivalent to the loss of a hand, and the amputation between the knee and ankle shall be considered as the equivalent of the loss of a foot.

For the loss of a leg, two hundred weeks.

For the loss of an eye, one hundred twenty-four weeks.

For the complete nad permanent loss of hearing in both ears, one hundred sixty-three weeks.

For the complete and permanent loss of hearing in one ear, fifty-three weeks.

For the loss of an eye and a leg, three hundred and fifty weeks.

For the loss of an eye and one arm, three hundred and fifty weeks.

For the loss of an eye and a hand, three hundred and twenty-five weeks.

For the loss of an eye and a foot, three hundred weeks.

For the loss of two arms, other than at the shoulder, four hundred weeks.

For the loss of two hands, four hundred weeks.

For the loss of two legs, four hundred weeks.

For the loss of two feet, four hundred weeks.

For the loss of one arm and the other hand, four hundred weeks.

For the loss of one hand and one foot, four hundred weeks.

For the loss of one leg and the other foot, four hundred weeks.

For the loss of one hand and one leg, four hundred weeks.

For the loss of one arm and one foot, four hundred weeks.

For the loss of one arm and one leg, four hundred weeks.

For serious disfigurement, not resulting from the loss of a member or other injury specifically compensated, materially affecting the employability of the injured person in the employment in which he was injured or other employment for which he is then qualified, sixty-six and two-thirds percent of the average weekly earnings for such period as the court may determine, not exceeding one hundred weeks.

Where a permanent partial disability follows a period of temporary total disability resulting from the same injury, the first fifteen weeks of such temporary total disability shall not be deducted from the number of weeks payable for the permanent partial disability.

2. Concurrent injuries.

Where an employee sustains concurrent injuries resulting

in concurrent disabilities, he shall receive compensation, only for the injury which entitled him to the largest amount of compensation, but this section shall not affect liability for the concurrent loss of more than one member for which members compensation is provided in the specific schedule and in subsection (D).

3. Loss of use of a member.

In all cases the permanent and total loss of the use of a member shall be considered as equivalent to the loss of that member but in such cases the compensation in and by said schedule shall be in lieu of all other compensation except as otherwise provided herein. In case of permanent disability, due to injury to a member resulting in less than total loss of use of such member, not otherwise compensated in this schedule, compensation shall be paid at the prescribed rate during that part of the time specified in the schedule for the total loss or total loss of use of the respective member, which the extent of the injury to the member bears to its total loss.

4. Employee refusing employment.

If an injured employee, refuses employment suitable to his capacity, offered to or procured for him, he shall not be entitled to any compensation at any time during the continuance of such refusal unless at any time in the opinion of the judge of the circuit court of the county of his residence, such refusal is justifiable.

5. Permanent partial maximum and minimum.

All compensation provided in subsection (C) of this section for loss of members, or loss of use of members, is subject to the same limitations as to maximum and minimum weekly compensation as stated in section 289 of this title.

6. All other permanent partial.

In all other cases of permanent partial disability not above enumerated, the compensation shall be sixty-six and two-thirds percent of the difference between the average weekly earnings of the workman at the time of the injury and the average weekly earnings he is able to earn in his partially disabled condition subject to the same maximum weekly compensation as stated in section 289 of this title.

7. Maximum time.

Compensation shall continue during disability, not however, beyond three hundred weeks.

8. Affidavit of new employment.

In case the injured employee leaves the services of the employer for whom he was working at the time of the accident and accepts employment elsewhere, he shall make and furnish affidavit as to his new employment in the manner as required in subsection (B).

9. Payments.

In case of an injured employee whether permanent, partial, or however injured, or death of an employee, and only in such cases as are presented to the court by petition the circuit judge with competent jurisdiction may decide how the compensation shall be paid to the injured employee or his estate upon a final settlement or judgement whether by a trial or by agreement. In cases pending in payment at the time this Act becomes law the injured employee or his estate may petition a court of competent jurisdiction and the court may order the employer to pay the amount due the employee or his estate within thirty (30) days from the date of said order if the court determines that monies due the employee or his estate shall be paid in a lump sum. The payments shall not be commuted.

(D) 1. Permanent Total.

For permanent total disability as defined in subsection (E) sixty-six and two-thirds percent of the average weekly earnings received at the time of the injury, subject to a maximum and minimum weekly compensation as stated in section 289 of this title; provided that, if at the time of injury the employee was receiving earnings of less than the minimum as stated in section 289 of this title, then he shall receive the full amount of his earnings per week. This compensation shall be paid during such permanent total disability, not exceeding six hundred and fifty weeks but in no event shall the aggregate of such payment exceed the total amount provided in section 289 of this title; payment to be made at the intervals when the earnings were payable, as nearly as may be unless the parties otherwise agree. Such payments, with the approval of the circuit judge, or by agreement of the parties, may be made monthly or quarterly or otherwise as the parties may agree.

2. Employee inmate of public institution.

In case an employee, who is permanently and totally disabled becomes an inmate of a public institution, then no compensation shall be payable unless he has wholly dependent on him for support of person or persons named in sections 280 and 281 of this title, whose dependency shall be determined as if the employee were deceased, in which case the compensation provided for in this subsection shall be paid for the bene-

fit of such person so dependent, during dependency, in the manner ordered by the court, while the employee is an inmate in such institution.

Provided, however, that nothing contained herein shall be construed to deprive a permanently and totally disabled employee who has no dependents named in sections 280 and 281 of this title from receiving benefits to which he would otherwise be entitled if said employee, although an inmate of a public institution, is paying or on whose behalf funds are paid from any source to said public institution the normal and customary charge for the services rendered by said public institution. Normal and customary charge shall mean that charge actually made by the public institution to persons able to pay for the services rendered the mwhether said charge actually covers the expense of the upkeep of said inmate or not. In the event said employee has had a guardian appointed by a court of competent jurisdiction, said workmen's compensation payment shall be directly paid to said guardian.

(E) Permanent Total Disability Defined.

The total and permanent loss of the sight of both eyes or the loss of both arms at the shoulder, or complete and permanent paralysis or total and permanent loss of mental faculties, which totally incapacitates the employee from working at any occupation which brings him an income, shall constitute permanent total disability.

1. Other second permanent injury.

If an employee has a permanent disability or has previously sustained another injury than that in which he received a subsequent permanent injury by accident such as is specified in the sections herein defining permanent injury, he shall be entitled to compensation only for the degree of injury that would have resulted from the latter accident if the earlier disability or injury had not existed.

2. Certain second permanent injuries.

If an employee has previously lost or lost the use of one eye, one leg, one arm, one foot, or one hand, and thereafter in the same employment or in the employment of another, he should by accident receive additional injuries so as to proximately cause the loss or loss of use of both eyes, both legs, both arms, both feet, or both hands, said employee shall receive compensation equal to the amount provided hereunder for one who has received a permanent total disability, such compensation to be paid by the employer to the extent that such employer would have to pay compensation for the degree of injury that would have resulted from the accident if the earlier disability or injury had not existed and the remainder of the

amount of such compensation after the completion of such payments by the employer shall be paid by the director of industrial relations as trustee from any amounts from time to time standing to his account as such trustee in the second injury trust fund.

3. Other permanent total disabilities.

For permanent total disability other than as defined in sub-section (E) sixty-six and two-thirds percent of the average weekly earnings received at the time of injury subject to a maximum and minimum weekly compensation as stated in section 289 of this title; but if at the time of the injury, the employee was receiving earnings of less than the minimum as stated in section 289 of this title, then he shall receive full amount of his earnings per week. This compensation shall be paid during the period of such permanent disability not exceeding five hundred weeks; payments to be made at the intervals when the earnings were payable as nearly as may be. Such payments, with the consent of the circuit judge, or by the agreement of the parties, may be made monthly or quarterly or otherwise as the parties may agree.

4. Benefits not concurrent; exceptions.

If an employee received an injury for which compensation is payable while he is still receiving or entitled to compensation for a previous injury in the same employment, he shall not at the same time be entitled to compensation for both injuries, unless the later injury be a permanent injury, such as specified in this section; but he shall be entitled to compensation for that injury and from the time of that injury which will cover the longest period and the largest amuont payable under articles 1 and 2 of this chapter.

5. Second permanent injuries resulting in permanent total disability.

If an employee received a permanent injury as specified in this section, after having sustained another permanent injury in the same employment, he shall be entitled to compensation for both injuries, but the total compensation shall be paid by extending the period and not by increasing the amount of weekly compensation, and in no case exceeding six hundred weeks. When the previous and subsequent injuries received in the same employment result in total disability, compensation shall be payable for permanent total disability, but payments made for the previous injury shall be deducted from the total payment of compensation due.

(F) Compensation for Death after Disability.

In case a workman sustained an injury occasioned by an accident arising out of and in the course of his employment and during the period of disability caused thereby death results proximately therefrom, all payments previously made as compensation for such injury shall be deducted from the compensation, if any, due on account of death. If a workman who has sustained a permanent disability, the degree of which has been agreed upon by the parties or has been ascertained by the court, and death results not proximately therefrom, the employee's surviving spouse and/or dependent children shall be entitled to the balance of the payments which would have been due and payable to the workman, not exceeding, however, the amount that would have been due the surviving spouse and/or dependent children if death had resulted proximately from the injury.

1. Hernia.

In all claims for compensation for hernia resulting from injury by an accident arising out of and in the course of his employment, it must be definitely proven to the satisfaction of the court:

(a) That there was an injury resulting in hernia.

(b) That the hernia appeared suddenly.

(c) That it was accompanied by pain.

(d) That the hernia immediately followed an accident.

(e) That the hernia did not exist prior to the accident for which compensation is claimed.

All hernia, inguinal, femoral or otherwise, so proved to be the result of an injury by accident arising out of and in the course of the employment shall be treated in a surgical manner by radical operation. In case the injured employee refuses to undergo the radical operation for the cure of said hernia, no compensation will be allowed during the time such refusal continues. If, however, it is shown that the employee has some chronic disease, or is otherwise in such physical condition that the court considers it unsafe for the employee to undergo said operation, the employee shall be paid as otherwise provided in this chapter.

(G) Average Weekly Earnings Basis of Benefits.

Compensation hereunder shall be computed on the basis of the average weekly earnings. Average weekly earnings shall mean the earnings of the injured employee in the employment in which he was working at the time of the injury during the period of fifty-two weeks immediately preceding

the date of the injury divided by fifty-two; but if the injured employee lost more than seven consecutive calendar days during such period although not in the same week, then the earnings for the remainder of such fifty-two weeks shall be divided by the number of weeks remaining after the time so lost has been deducted. Where the employment prior to the injury extended over a period of less than fifty-two weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof which the employee earned wages shall be followed, provided results just and fair to both parties will thereby be obtained. Where by reason of the shortness of the time during which the employee has been in the employment of his employer, or the casual nature or terms of the employment, it is impracticable to compute the average weekly earnings as above defined, regard shall be had to the average weekly amount which during the fifty-two weeks prior to the injury was being earned by a person in the same grade, employed at the same work by the same employer, and if there is no such person so employed, by a person in the same grade employed in the same class of employment in the same district. Wherever allowances of any character made to an employee in lieu of wages are specified as part of the wage contract, they shall be deemed a part of his earnings.

Section 15. Section 280, Title 26, Code of Alabama 1940, as last amended, is hereby amended to read as follows:

Section 280. Persons presumed wholly dependent. — For the purposes of this article, the following described persons shall be conclusively presumed to be wholly dependent:

Wife, unless it be shown that she was voluntarily living apart from her husband at the time of his injury or death, or unless it be shown that the husband was not in any way contributing to her support and had not in any way contributed to her support for more than twelve months next preceding the occurrence of the injury causing his death.

Husband, unless it be shown that he was voluntarily living apart from his wife at the time of her injury or death, or unless it be shown that the wife was not in any way contributing to his support and had not in any way contributed to his support for more than twelve months next preceding the occurrence of the injury causing her death.

Minor children under the age of eighteen years, and those over eighteen if physically or mentally incapacitated from earning.

Section 16. Section 283, Title 26, Code of Alabama 1940, as last amended, is hereby amended to read as follows:

Section 283. Death compensation. — In death cases where the death results proximately from the accident within three years, compensation payable to dependents shall be computed on the following basis and shall be paid to the persons entitled thereto without administration, or to a guardian or such other person as the court may direct, for the use and benefit of the person entitled thereto.

(A) Persons Entitled to Benefits.

1. If the deceased employee leaves dependent widow or widower and no dependent child, there shall be paid to the widow or widower thirty-seven percent of the average weekly earnings of the deceased.

2. If the deceased employee leaves a dependent widow or dependent husband and one dependent child, there shall be paid to the widow or husband for the benefit of herself or himself and such child, fifty-two percent of the average weekly earnings of the deceased.

3. If the deceased employee leaves a dependent widow or dependent husband and two or more dependent children, there shall be paid to the widow or husband for the benefit of herself or himself and such children, sixty-six and two-thirds percent of the average weekly earnings of the deceased.

4. In all cases where compensation is payable to a widow or husband for the benefit of herself or himself and dependent child, or children, the court shall at any time have the power to determine, in its discretion, without the appointment of any guardian or guardians what portion of the compensation shall be applied for the benefit of any such child or children and may order the same paid to a guardian or custodian of such child or children.

5. If the deceased employee leaves a dependent child or dependent children and no dependent widow or dependent husband, there shall be paid, if only one child, thirty-seven percent of the average weekly earnings of the deceased, if two such children, fifty-two percent of such average weekly earnings and if three or more such children, sixty-six and two-thirds percent of the average weekly earnings of the deceased.

6. If the deceased employee leaves no widow or child or husband entitled to any payment hereunder, but leaves a parent or parents, either or both of whom are wholly dependent on the deceased, there shall be paid, if only one parent, thirty-seven percent of the average weekly earnings of the deceased, and if both parents, fifty-two percent of the average weekly earnings of the deceased, to such parent or parents.

7. If the deceased employee leaves no widow or child or husband or parent entitled to any payment hereunder, but leaves a grandparent, brother, sister, mother-in-law or father-in-law, wholly dependent on him for support, there shall be paid to such dependent, if but one, thirty percent of the average weekly earnings of the deceased, or if more than one, forty percent of the average weekly earnings of the deceased, divided between or among them, share and share alike.

8. Partial dependents shall be entitled to receive only that proportion of the benefits provided for total dependents, which the average amount of the earnings regularly contributed by the deceased employee to such partial dependent, at and for a reasonable time immediately prior to the injury, bore to the total income of the dependent during the same time.

9. If the deceased employee leaves a dependent widow, or dependent husband, or dependent child, or dependent children, or two or more such dependents entitled to compensation, and the total compensation payable to all of such dependents is less than sixty-six and two-thirds percent of the average weekly earnings of the deceased employee and less than the maximum weekly compensation stated in section 289 of this title, and the deceased employee also leaves a parent or parents wholly dependent on him for support, then such parent or such parents if more than one, shall in the manner provided in subsection 6 hereof, be paid such percentage of the average weekly earnings of the deceased as is equal to the difference between sixty-six and two thirds percent of the average weekly earnings of the deceased and the percentage of such earnings payable to such widow or husband and such child or children as is or are left by such deceased employee; provided that the maximum weekly compensation payable to such parent or parents under this subsection shall not exceed the difference between the maximum weekly compensation as stated in section 289 of this title and the weekly compensation payable to such widow, or husband and child or children, as is or are left by the deceased employee.

10. If compensation is being paid under this article to any dependent, such compensation shall cease upon the death or marriage of such dependent, unless otherwise provided in this article.

Upon the cessation of compensation to or for any dependent, for any cause, the compensation of the remaining dependents entitled to compensation shall, for the unexpired period during which their compensation is payable, be that which would have been payable to them had they been the only persons entitled to compensation at the time of death of the deceased employee.

(B) Maximum and Minimum Death Compensation.

The compensation payable in case of death to persons wholly dependent shall be subject to a maximum and minimum weekly compensation as stated in section 289 of this title; but if at the time of injury the employee receives earnings of less than the minimum stated in section 289 of this title, then the compensation shall be the full amount of such earnings per week. The compensation payable to partial dependents shall be subject to a maximum and minimum weekly compensation as stated in section 289 of this title; but if the income loss of said partial dependents by such death is less than the minimum weekly compensation stated in section 289 of this title, then the dependents shall receive the full amount of their income loss. This compensation shall be paid during dependency, not exceeding five hundred weeks, payments to be made at the intervals when the earnings were payable, as nearly as may be unless the parties otherwise agree.

Section 17. Section 285, Title 26, Code of Alabama 1940, as last amended, is hereby amended to read as follows:

Section 285. Expenses of burial. — In all cases where death results to an employee caused by an accident arising out of and in the course of his employment, the employer shall pay, in addition to the medical and hospital expenses provided for in Section 293 of this title, the expenses of burial, not exceeding in amount one thousand dollars. In case dispute arises as to the reasonable value of the services rendered in connection with the burial, the same shall be approved by the court before payment after such reasonable notice to interested parties as the court may require.

Section 18. Section 286, Title 26, Code of Alabama 1940, as last amended, is hereby amended to read as follows:

Section 286. Orphans defined. — In computing and paying compensation to orphans or other children, in all cases, only those under eighteen years of age, or those over eighteen years of age, who are physically or mentally incapacitated from earning, shall be included; the former to receive compensation only during the time they are under eighteen, the latter for the time they are so incapacitated, within the applicable period for which benefits are payable.

Section 19. Section 289, Title 26, Code of Alabama 1940, as last amended, is hereby amended to read as follows:

Section 289. Limitations on compensation. — In no case hereunder, except as otherwise provided herein, shall the compensation paid hereunder be more than sixty-eight dollars per week nor less than thirty dollars per week, and in no case

shall the total amount exceed $34,000; provided, however, that effective July 1, 1974, in no case hereunder, except as otherwise provided herein, shall the compensation paid hereunder be more than seventy-five dollars per week nor less than thirty dollars per week, and in no case shall the total amount exceed $37,500.

Section 20. Section 292, Title 26, Code of Alabama 1940, as last amended, is hereby amended to read as follows:

Section 292. Waiting period; penalty for late payment. — In cases of temporary total or temporary partial disability no compensation shall be allowed for the first three days after disability, except as provided by section 293 of this title, nor in any case unless the employer has actual knowledge of the injury or is notified thereof within the period specified in section 294 of this title. Compensation shall begin with the fourth day after disability and in the event the disability from the injury exists for a period as much as twenty-one days, compensation for the first three days after the injury shall be added to and payable with the first installment due the employee after the expiration of the twenty-one days. If any installment of compensation payable is not paid without good cause within thirty days after it becomes due, there shall be added to such unpaid installment an amount equal to ten percent thereof, which shall be paid at the same time as, but in addition to, such installment.

Section 21. Section 293, Title 26, Code of Alabama 1940, as last amended, is hereby amended to read as follows:

Section 293. Medical, surgical, and hospital service. — In addition to the compensation herein provided, the employer shall pay the actual cost of the repair, refitting or replacement of artificial members damaged as the result of an accident arising out of and in the course of employment and the employer shall pay the actual cost of reasonably necessary medical and surgical treatment and attention, physical rehabilitation, medicine, medical and surgical supplies, crutches, original artificial members, and other apparatus, as may be obtained by the injured employee during the first four years of disability, or in case of death within said four years, obtained during the period occurring between the time of the injury and his death therefrom. If the employee is dissatisfied with the initial treating physician selected by the employer and if further treatment is required, the employee may so advise the employer and in such event the employee shall be referred to a second physician selected by the employer. In the event surgery is required, if the employee is dissatisfied with the designated physician, he may so advise the employer

and in such event the employee shall be referred to a second physician selected by the employer. The total liability of the employer under this section shall not exceed the aggregate of thirty-five thousand dollars, and the pecuniary liability of the employer for such services rendered the employee shall be limited to such charges as prevail for similar treatment in the community where the injured employee resides. In case an insurer of the employee or a benefit association is liable for such medical, surgical and hospital service or for a part thereof, or in case the employee is entitled to the same or a part thereof, from any source whatever by virtue of any agreement or understanding, or law, state or federal, without any loss of benefit to the employee, the employer shall not be required in such case to pay any part of such expense, unless said benefits are insufficient to pay as much as said thirty-five thousand dollars, and in such event the employer shall be liable for the deficiency only. All cases of dispute as to the necessity and value of such services shall be determined by the tribunal having jurisdiction of the claim of the injured employee for compensation. In addition to the medical and surgical treatment provided during the first four years of disability, the employer may, if he so elects, furnish to the injured employee such medical and surgical treatment and attention, medical and surgical supplies, crutches, original artificial members, and other apparatus for such time thereafter as he desires to furnish same, and the employee shall accept the same; if the employer furnishes such medical and surgical attention and supplies during such four year period he shall not be liable under this section, except for such of said services and supplies as may, in an emergency, be procured by the employee elsewhere; in no event, however, shall the total liability hereunder exceed thirty-five thuosand dollars. The injured employee must submit himself to examination by the employer's physician at all reasonable times, if requested to do so by the employer but the employee shall have the right to have a physician of his own selection present at such examination, in which case the employee shall be liable to such physician for his services. The employer shall pay for the services of the physician making the examination at the instance of the employer. And in case of dispute as to the injury, the court may, at the instance of either party, or of its own motion, appoint a neutral physician of good standing and ability to make an examination of the injured person and report his findings to the court, the expense of which examination shall be borne equally by the parties. If the injured employee refuses to comply with any reasonable request for examination or refuses to submit to medical and surgical treatment and attention, or refuses to accept the medical service which the employer elects to furnish under the pro-

visions of this chapter his right to compensation shall be suspended, and no compensation shall be payable for the period of such refusal. Any physician whose services are furnished or paid for by the employer, or any physician of the injured employee, who treats or makes or is present at any examination of an injured employee may be required to testify as to any knowledge by him in the course of such treatment or examination as same related to the injury or disability arising therefrom. Any such physician shall, upon written request of the injured employee or his employer, furnish to such injured employee or his employer a written statement of his professional opinion as to the extent of the injury and disability. In all death claims where the cause of death is obscure or is disputed, any interested party may require an autopsy, the cost of which is to be borne by the party demanding the same. Physicians shall include medical doctor, surgeon and chiropractor.

Section 22. Section 301, Title 26, Code of Alabama 1940, as last amended, is hereby amended to read as follows:

Section 301. Employer may pay award to trustee and be discharged. — At any time after the amount of any award has been agreed upon by the parties, or found and ordered by the court, a sum equal to the present value of all future installments of compensation calculated on a six percent basis, may, where death or the nature of the injury renders the amount of future payments certain, by leave of court, be paid by the employer to any savings bank or trust company of this state, or any national bank doing business in this state to be approved and designated by the court, and such sum, together with all interest thereon, shall thereafter be held in trust for the employee or dependents of the employee, who shall have no further recourse against the employer. The payment of such sum by the employer, evidenced by the receipts in duplicate of the trustees, one of which shall be filed with the probate judge of the county in which the injury or death occurred, and the other filed with the clerk of the circuit court, shall operate as a satisfaction of said award as to the employer, and the trustee designated by the court shall be allowed to pay itself from said fund a reasonable compensation for acting as such trustee, which said compensation shall be fixed by the court in the decree making such designation. Payments from said fund shall be made by the trustee in the same amounts and at the same time as are herein required of the employer until said fund, after deducting trustee's compensation as above provided, and interest shall be exhausted. In the appointment of the trustee, preference shall be given, in the discretion of the court, to the choice of the injured employee or the dependents of the deceased employee as the case

may be. In the event the right to receive compensation should terminate on account of death, becoming of age, or marriage, or for any other cause as provided in this chapter, the balance remaining in said bank or trust company after such termination should be returned by them to the employer, his successor or assigns.

Section 23. Paragraph (2) of Section 309, Title 26, Code of Alabama 1940, as last amended, is hereby amended to read as follows:

(2) Self-insurer. — Every employer subject to the provisions of this chapter who elects not to insure his liability thereunder shall furnish satisfactory proof to the director of industrial relations of his financial ability to pay directly such compensation in the amount and manner and when due as provided by this chapter, whereupon the director shall authorize said employer to operate as a self-insurer; provided, however, the director may require such employer to post a surety bond or to deposit in a depository designated by the director money or securities of a kind and in an amount reasonably determined by the director and subject to such reasonable conditions as the director may prescribe, which shall include authorization to the director in case of default to sell any such securities to pay benefits due or to bring suit upon such bond to procure payment of benefits under this chapter. The director may also prescribe other reasonable rules and regulations for the purpose of protecting the injured employee or the employee's dependents.

Section 24. Paragraph (4) of Section 309, Title 26, Code of Alabama 1940, as last amended, is hereby amended to read as follows:

(4) Certificate of compliance; issuance; revocation; appeal. — Whenever an employer has complied with the provisions of subsection (2) hereof relating to self-insurance, the director shall issue to such employer a certificate, which shall remain in force for a period fixed by the director. The director may, upon sixty days' notice and hearing to the employer, for financial reasons, for failure of the employer to faithfully discharge his obligations according to the agreements contained in his application for self-insurance, or for the violation of any reasonable rule or regulation prescribed by the director, revoke the self-insurance certificate, in which case the employer shall immediately insure his liability. Certificates of self-insurance issued prior to the effective date of this act shall continue in force but shall become subject to revocation as provided herein. At any time after such revocation the director may grant a new certificate to the employer upon his application.

An appeal may be taken from any ruling of the director under subsection (2) hereof and this subsection to the circuit court of any county wherein the employer does business. Trial in such court shall be de novo and without a jury unless the employer demands a jury trial at the time of taking such appeal; provided, however, the taking of any such appeal shall not supercede the ruling or order appealed from unless good and sufficient bond approved by the judge of the court to which the appeal is taken shall be filed with the clerk of said court conditioned on complying with such order as may be legally made effective and further conditioned upon payment by the employer of all final judgments for compensation that may be rendered against him pending the disposition of such appeal.

Section 25. Paragraph (5) of Section 309, Title 26, Code of Alabama 1940, as last amended, is hereby amended to read as follows:

(5) Penalties for failure to secure compensation liability. — Any employer required to secure the payment of compensation under this section who fails to secure compensation shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not less than twenty-five dollars nor more than one thousand dollars and in addition thereto any employer required to secure the payment of compensation under this section who fails to secure such compensation shall be liable for two times the amount of compensation which would have otherwise been payable for injury or death to an employee. The director is authorized to apply to any court of competent jurisdiction for an injunction to restrain threatened or continued violation of any provisions relating to the requirements of insurance or self-insurance.

Section 26. Section 312, Title 26, Code of Alabama 1940, as last amended, is hereby amended to read as follows:

Section 312. Liability of party other than employer and procedure governing. — Where the injury or death for which compensation is payable under article 2 of this chapter was caused under circumstances also creating a legal liability for damages on the part of any party other than the employer whether or not such party be subject to the provisions of article 2 of this chapter the employee, or his dependents in case of his death, may proceed against the employer to recover compensation under article 2 of this chapter, or may agree with the employer upon the compensation payable under article 2 of this chapter, and at the same time may bring an action against such other party to recover damages for such injury or death, and the amount of such damages shall be as-

certained and determined without regard to article 2 of this chapter; provided, however, neither an officer, director, agent, servant or employee of the same employer or his personal representative, shall be considered a party other than the employer against whom such an action may be brought. If the injured employee, or in case of his death his dependents, recover damages against such other party the amount of such damages so recovered and collected shall be credited upon the liability of the employer for compensation, and if such damages so recovered and collected should be in excess of the compensation payable under article 2 of this chapter there shall be no further liability on the employer to pay compensation on account of such injury or death, and the employer shall be entitled to reimbursement for the amount of compensation theretofore paid on account of such injury or death. In the event the injured employee, or in case of his death, his dependents, do not file suit against such other party to recover damages within the time allowed by law, the employer or the insurance carrier for the employer shall be allowed an additional period of six months within which to bring suit against such other party for damages on account of such injury or death, in the event the employer or the insurance carrier shall have paid compensation to such employee, or his dependents, or in the event a proceeding is pending against the employer to require the payment of such compensation, and such suit may be maintained either in the name of the injured employee, or in case of his death in the name of his dependents, or in the name of the employer or the insurance carrier, and in the event the damages recovered in such suit are in excess of the compensation payable by the employer under article 2 of this chapter and costs, attorney's fees and reasonable expenses incurred by the employer in making such collection, the excess of such amount shall be held in trust for the injured employee, or in case of his death for his dependents. In the event such injured employee has no dependents, his personal representative in the event of his death may bring suit against such other party to recover damages without regard to article 2 of this chapter. In any settlement made under this section with a negligent third-party by the employee, or in case of his death, by his dependents, the employer shall be liable for that part of the attorney's fees incurred in the settlement with the third-party, either with or without suit, in the same proportion that the amount of the reduction in the employer's liability to pay compensation bears to the total recovery had from such third-party.

Section 27. Section 4 of Act No. 180, adopted at the 1951 Regular Session of the Legislature of Alabama, as last amended, is hereby amended to read as follows:

Section 4. Presumption as to acceptance of provisions of article. — All contracts of employment made on or after the effective date of this article shall be presumed to have been made with reference to and subject to the provisions of this article. All contracts of employment made prior to, and existing on, the effective date of this article shall be presumed to continue from and after said date, subject to and under the provisions of this article. Every employer and every employee shall be presumed to have accepted and come under this article and the provisions thereof relating to the payment and acceptance of compensation.

Section 28. Section 5 of Act No. 180, adopted at the 1951 Regular Session of the Legislature of Alabama, as last amended, relating to either party may terminate agreement, is hereby repealed.

Section 29. Section 6 of Act No. 180, adopted at the 1951 Regular Session of the Legislature of Alabama, as last amended, is hereby amended to read as follows:

Section 6. Surrender of other rights. — No employee of any employer subject to this article, nor the personal representative, surviving spouse or next of kin of any such employee, shall have any right to any other method, form or amount of compensation or damages for the contraction of the disease of occupational pneumonoconiosis, or for injury, disability, loss of service or death resulting from such disease, arising out of and in the course of employment, or determination thereof in any manner other than as provided in this article.

Section 30. Section 8 of Act No. 180, adopted at the 1951 Regular Session of the Legislature of Alabama, as last amended, relating to effect of election by employer or employee not to come under act, is hereby repealed.

Section 31. Section 12 of Act No. 180, adopted at the 1951 Regular Session of the Legislature of Alabama, as last amended, is hereby amended to read as follows:

Section 12. Rights and remedies arising from prior exposures. — All exposures of the employee occurring prior to the effective date of this Act to the hazards of said occupational pneumonoconiosis while in the employ of the employer shall be deemed for all purposes to be subject to the provisions of this article, and the employee, his personal representative, parents, surviving spouse, dependents and next of kin, shall be entitled to compensation or other benefits and barred from other rights and remedies as herein provided for exposures occurring after the effective date of this Act.

Section 32. Section 3 of Act No. 521, adopted at the 1967 Regular Session of the Legislature of Alabama, as last amended, is hereby amended to read as follows:

Section 3. Presumption as to acceptance of provisions of article. — All contracts of employment made on or after the effective date of this article shall be presumed to have been made with reference to and subject to the provisions of this article. All contracts of employment made prior to, and existing on, the effective date of this article shall be presumed to continue from and after said date, subject to and under the provisions of this article. Every employer and every employee shall be presumed to have accepted and come under this article and the provisions thereof relating to the payment and acceptance of compensation.

Section 33. Section 4 of Act No. 521, adopted at the 1967 Regular Session of the Legislature of Alabama, as last amended, relating to termination of acceptance or election not to accept, is hereby repealed.

Section 34. Section 5 of Act No. 521, adopted at the 1967 Regular Session of the Legislature of Alabama, as last amended, is hereby amended to read as follows:

Section 5. Effect of acceptance. — No employee of any employer subject to this article, nor the personal representative, surviving spouse or next of kin of any such employee shall have any right to any other method, form or amount of compensation or damages for occupational exposure to radiation, or for injury, disability, loss of service or death resulting from such exposure, arising out of and in the course of employment, or determination thereof in any manner other than as provided in this article.

Section 35. Section 7 of Act No. 521, adopted at the 1967 Regular Session of the Legislature of Alabama, as last amended, relating to effect of election by employer or employee not to come under article, is hereby repealed.

Section 36. Section 11 of Act No. 521, adopted at the 1967 Regular Session of the Legislature of Alabama, as last amended, is hereby amended to read as follows:

Section 11. Rights and remedies arising from prior exposures. — All exposures of the employee occurring prior to the effective date of this Act to the hazards of radiation while in the employ of the employer shall be deemed for all purposes to be subject to the provisions of this article, and the employee, his personal representative, parents, surviving spouse, dependents and next of kin, shall be entitled to compensation,

or other benefits and barred from other rights and remedies as herein provided for exposures occurring after the effective date of this Act.

Section 37. Section 3 of Act No. 668, adopted at the 1971 Regular Session of the Legislature of Alabama, as last amended, is hereby amended to read as follows:

Section 3. Presumption as to acceptance of provisions of article. — All contracts of employment made on or after the effective date of this article shall be presumed to have been made with reference to and subject to the provisions of this article. All contracts of employment made prior to, and existing on, the effective date of this article shall be presumed to continue from and after said date, subject to and under the provisions of this article. Every employer and every employee shall be presumed to have accepted and come under this article and the provisions thereof relating to the payment and acceptance of compensation.

Section 38. Section 4 of Act No. 668, adopted at the 1971 Regular Session of the Legislature of Alabama, as last amended, relating to termination of acceptance or election not to accept, is hereby repealed.

Section 39. Section 5 of Act No. 668, adopted at the 1971 Regular Session of the Legislature of Alabama, as last amended, is hereby amended to read as follows:

Section 5. Effect of acceptance. — No employee of any employer subject to this article, nor the personal representative, surviving spouse or next of kin of any such employee, shall have any right to any other method, form or amount of compensation or damages for the contraction of an occupational disease as defined in this article, or for injury, disability, loss of service or death resulting from such disease, arising out of and in the course of employment, or determination thereof in any manner other than as provided in this article.

Section 40. Section 7 of Act No. 668, adopted at the 1971 Regular Session of the Legislature of Alabama, as last amended, relating to effect of election by employer or employee not to come under article, is hereby repealed.

Section 41. Section 11 of Act No. 668, adopted at the 1971 Regular Session of the Legislature of Alabama, as last amended, is hereby amended to read as follows:

Section 11. Rights and remedies arising from prior exposures. — All exposures of the employee occurring prior to the effective date of this Act to the hazards of an occupational

disease as defined in this article while in the employ of the employer shall be deemed for all purposes to be subject to the provisions of this article, and the employee, his personal representative, parents, surviving spouse, dependents and next of kin, shall be entitled to compensation or other benefits and barred from other rights and remedies as herein provided for exposures occurring after the effective date of this act.

Section 42. Applicability of other Sections. It is hereby expressly affirmed that all of the provisions of Articles 1, 2 and 3 of Chapter 5, Title 26, Code of Alabama 1940, as amended, except Section 294, shall be applicable to Sections 4, 6, 7, and 12 of Act No. 180, adopted at the 1951 Regular Session of the Legislature of Alabama, as herein amended, to Sections 3, 5, 6 and 11 of Act No. 521, adopted at the 1967 Regular Session of the Legislature of Alabama, as herein amended, and to Sections 3, 5, 6, and 11 of Act No. 668, adopted at the 1971 Regular Session of the Legislature of Alabama, as herein amended, unless otherwise provided or inconsistent herewith. Nothing in this section 46 shall be construed to affect the applicability of the provisions of Articles 1, 2 and 3 of Chapter 5, Title 26, Code of Alabama 1940, as amended, otherwise than is herein expressly provided.

Section 43. Section 324, Title 26, Code of Alabama 1940, as last amended, is hereby amended to read as follows:

Section 324. Failure to make reports. — Any employer required under this chapter or under Act No. 180, adopted at the 1951 Regular Session of the Legislature of Alabama, as amended, or under Act No. 521, adopted at the 1967 Regular Session of the Legislature of Alabama, as amended, or under Act No. 668, adopted at the 1971 Regular Session of the Legislature of Alabama, as amended, to make reports in writing who fails to make reports within the time specified without good cause shall pay to the director of industrial relations for the benefit of the second injury trust fund the sum of twenty-five dollars. Any person required under this chapter to make reports in writing who wilfully fails to make such reports shall be guilty of a misdemeanor and on conviction may be imprisoned in the county jail or sentenced to hard labor for the county for not more than twelve months and may be fined not more than five hundred dollars.

Section 44. There is hereby appropriated to the Department of Industrial Relations out of the general fund in the State Treasury the sum of $47,000 for the fiscal year beginning October 1, 1973, and ending September 30, 1974, and the sum of $46,000 for the fiscal year beginning October 1, 1974, and

ending September 30, 1975, to be used for carrying out the purpose of this Act; such appropriations to be in addition to and not in lieu of any other appropriation to the said Department.

Section 45. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 46. All laws or parts of laws which conflict with this Act are repealed.

Section 47. This Act shall become effective immediately upon passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 17, 1973.

Time: 3:20 P.M.

Act No. 1063 S. 516—Noonan

AN ACT

To amend Sections 71, 75, 76 and 82 of Title 10, Code of Alabama 1940, which provide for the exercise of the power of eminent domain by certain corporations and certain rights and limitations relating to such exercise of the power of eminent domain.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 71 of Title 10, Code of Alabama 1940, is hereby amended to read as follows:

"Section 71. Power of eminent domain and to condemn.—Corporations formed for the purpose of constructing, operating, or maintaining railroads, street railroads, gas or electric works, water companies, power companies, canals, terminals, bridges, viaducts, wharves, piers, telegraph or telephone lines, pipelines or any other work of internal improvement or public utility may exercise the power of eminent domain in the manner provided by law."

Section 2. Section 75 of Title 10, Code of Alabama 1940, is hereby amended to read as follows:

"Section 75. Street railroads, telegraph, telephone, water, gas, electric, canal, pipeline companies may acquire rights of way and rights of condemnation.—Street railroad companies, telegraph, telephone, water, gas, electric, power, canal, pipeline companies, and all other companies formed for constructing, operating, or maintaining any work of internal improvement or public utility, may acquire by condemnation for a right

of way for their railways, lines, tunnels, canals, dams, pipelines, excavations, or works, lands for ways and rights of way not exceeding one hundred feet in width, throughout the entire length of such railways, lines, tunnels, canals, dams, pipelines, excavations, or works, together with the right to cut down such trees as might by falling, injure the same; together with the necessary lands, other than lands for ways and rights of way, for the construction or installation of facilities, apparatus or equipment necessary for the operation of such railways, lines, tunnels, canals, dams, pipelines, excavations or works."

Section 3. Section 76 of Title 10, Code of Alabama 1940, is hereby amended to read as follows:

"Section 76. Lines, works, etc., not to be constructed through yards, curtilage of dwellings, gardens, stable lots, etc. —Unless otherwise provided by law, no street railroad company or any other corporation, except railroad companies, pipeline companies, and public works companies shall, without the consent of the owner, construct any railway, tramway, canal, tunnel, underground passage, telegraph or telephone line, adequct, pipeline or any other line or works through any yard or curtilage of a dwelling house, garden, stable lot or barn."

Section 4. Section 82 of Title 10, Code of Alabama 1940, is hereby amended to read as follows:

"Section 82. Railroads, mining corporations, etc., may enter on land to make survey, examinations for proposed lines, works, etc.—Railroads, street railroads, and mining, and manufacturing, power, and quarrying, telegraph and telephone, pipeline and other corporations having rights and powers to condemn, may cause such examinations and surveys for their proposed railroads, pipelines, lines, facilities, apparatus or equipment as may be necessary to the selection of the most advantageous routes and sites, and for such purpose may, by their officers, agents, and servants, enter upon the lands and waters of any person, but subject to liability for all damages done thereto, and may, in the construction of their lines or sites, cross navigable streams, but must not impede the navigation thereof; may use, cross, or change public roads, when necessary, in the construction of their railways, switches, branches, lines, pipelines, facilities, apparatus, equipment or buildings, and must place the public road so crossed, used, or changed, in condition satisfactory to the county authorities having the control thereof, but where practicable the railroads must go over or under the public roadway, or railroad track, and may also cross or intersect with any other railroad or street railway, and if such crossing or intersection cannot be made by

contract or agreement, may acquire the rights thereto by condemnation in the mode provided by law."

Section 5. The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 6. This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming law.

Approved September 17, 1973.

Time: 3:45 P.M.

Act No. 1064 S. 642—Noonan, Pelham, Edington

AN ACT

To create, establish and empower The Ameraport Offshore Harbor and Terminal Commission, pending the approval of a bistate compact involving the participation of the States of Alabama and Mississippi, in the development of an offshore deep draft harbor and terminal for the purpose of loading and unloading cargoes of energy, in particular, petroleum of all kinds.

Be It Enacted by the Legislature of Alabama:

Section 1. It is the intent and purpose of this Act to provide for the creation of The Ameraport Offshore Harbor and Terminal Commission, hereinafter referred to as the "Commission," to promote, plan, finance, develop, construct, control, operate, manage, maintain and modify a deep draft harbor and terminal, in order to promote the economic welfare of its citizens, and to provide the necessary facilities for docking, loading and unloading of vessels carrying liquid or dry bulk and energy cargoes, and to provide for the laying of pipelines or other forms of transportation or transmission of energy cargoes of all kinds. It is the object of this act to assert and protect Alabama's economic, social and environmental interests in the development of any Deep Draft Harbor and Terminal outside the State of Alabama where such development may have an impact upon the State of Alabama.

Section 2. It is the intent of this act that the Commission shall not be required to pay any taxes or assessments on any property acquired or used by it under the provisions of this act or upon the income therefrom, and any bonds issued hereunder shall be serviced from the income of said facility and shall be exempt from taxation by the State of Alabama, and by any municipal or political subdivision of the state.

Section 3. Definitions: In this act,

a. "Deep draft harbor or terminal" means a structure, series of structures or facility of any type located on the continental shelf off the coast, within or without the State of Alabama and designed to accommodate deep draft vessels carrying petroleum products whose draft is often greater than the depths of United States harbors and waterways commonly used by ocean going traffic, and includes all functionally related structures and facilities which are necessary or useful to the operation of the terminal whether landward or seaward of the main structure or facility. Such structures may be, or include a "single-buoy mooring terminal" system, or a "monobuoy" system.

b. "Commission" means the Ameraport Offshore Harbor and Terminal Commission.

c. "Executive Director" means the executive director of the Ameraport Offshore Harbor and Terminal Commission.

Section 4. The Commission shall have exclusive jurisdiction over the Commission Development Program within the coastal waters of Alabama. The Commission shall have the right to acquire waterbottoms inside and outside of the territorial limits of the State of Alabama for use in the construction, operation or maintenance of the facilities functionally required, related, necessary or useful to the operation of the Commission.

Section 5. The Commission shall be composed of the Governor, who shall serve as an ex-officio member, and a Board of Commissioners consisting of five members chosen on the basis of their demonstrated experience in civic leadership and their stature and ability to act effectively for the best interests of the State of Alabama. All Commissioners shall be appointed by the Governor. Each of the five Commissioners shall serve a five-year term, except for the initial appointees. The first five appointments shall be for terms of, one member for one year, two for two years, two for three years. All vacancies shall be filled by the Governor for the unexpired term in the same manner as the appointments are originally made. A Commissioner may be removed by the Governor for just cause. The Governor shall designate one member of the Commission to serve as Chairman and another to serve as Vice Chairman. Any vacancy in the office of Chairman or Vice Chairman shall be filled for the unexpired term in the manner provided for the original appointment or selection. The Commission may select other officers as are appropriate for the fulfillment of the Commission's activities.

Section 6. The Commission shall meet at least once each month and may hold special meetings at the call of the chair or

of three of its members. The Chairman, or in his absence the Vice Chairman, shall preside at all meetings. A majority of the members of the Commission constitutes a quorum for the transaction of business.

Section 7. All members of the Commission are entitled to receive reimbursement for travel and other necessary expenses resulting from the performance of their powers and duties under this Act, and all members of the Commission, except persons who are officers or employees of another state agency or a local government or political subdivision of the state, are entitled to receive as compensation $50 a day for each day actually engaged in the work of the Commission.

Section 8. The Commission shall employ an executive director to serve at the will of the Commission.

Section 9. The Executive Director, under policies adopted by the Commission, shall manage the executive and administrative functions of the Commission and the Commission's general operations and shall serve as Chief Administrative Officer of the Commission.

Section 10. The executive director, in addition to his usual functions, shall be secretary to the Board of Commissioners. The Board of Commissioners shall fix the compensation of the Executive Director. The Executive Director shall employ necessary engineers, attorneys, accountants, technical personnel, and other employees necessary to carry out the provisions of this Act.

Section 11. Employees of the Commission are entitled to compensation as provided by the Commission.

Section 12. The Executive Director shall keep full and accurate minutes of all transactions and proceedings of the Commission. The Executive Director shall be the custodian of all the files and records of the Commission.

Section 13. After proper notice and hearing, the Commission shall adopt rules for its operations and to carry out its powers, duties, and responsibilities.

Section 14. The Commission may apply for, request, solicit, contract for, receive and accept money and other assistance from any source to carry out its duties.

Section 15. All information, documents and data collected by the Commission in the performance of its duties are the property of the State. All records are open to inspection by any person during regular office hours.

Section 16. The Commission shall formulate general policy to govern the agency and its activities. The Commission has

the powers and duties specifically prescribed by this Act and all other powers necessary or convenient to carry out its responsibilities.

Section 17. The Commission shall be vested with exclusive and plenary authority to do any and all things necessary or proper for the Commission to promote, plan, finance, develop, construct, control, operate, manage, maintain and modify the Commission Development Program. To assert Alabama's interest in any Deep Draft Harbor and Terminal development in proximity to the Alabama coast, the Commission is empowered to negotiate with and enter into contracts, compacts, or other agreements with agencies, bureaus or other divisions of the federal government or other states of the United States concerning the Commission Development Program, including jurisdictional aspects of the location of the Deep Draft Harbor and Terminal, sharing of revenues derived from the operation of the Deep Draft Harbor and Terminal and promulgation and enforcement of regulations governing Commission operations.

Section 18. The Commission is granted all powers capable of being delegated by the Legislature under the Constitution of the State, including but not limited to auhority:

a. To own, construct, operate, maintain and lease docks, wharves, sheds, elevators, pipelines, pumping stations and facilities, storage facilities, housing and food facilities, helioport, locks, slips, laterals, basins, warehouses and all other property, structures, equipment and facilities, including belt and connecting lines of railroads and works of public improvement necessary or useful for Deep Draft Harbor and Terminal purposes.

b. To dredge and maintain shipways, channels, slips, basins and turning basins.

c. To establish, operate and maintain in cooperation with the Federal Government, the State of Alabama and its various agencies, subdivisions and public bodies, navigable waterway systems.

d. To acquire by expropriation any real property in fee, leaving the ownership of any minerals, or mineral rights in the former owners.

e. To collect tolls and fees.

f. To borrow funds for the business of the Commission.

g. to select an official journal for the publication of the official acts of the Commission.

h. To mortgage properties constructed or acquired by said Commission and to mortgage and pledge any lease or leases and the rents, income and other advantages arising out of any lease or leases granted, assigned or subleased by the Commission.

Section 19. The Commission is hereby empowered to take all necessary steps to protect Alabama's unique coastal environment from any short-term or long-term damage or harm which might occur from any aspect of the Commission Development Program.

Section 20. The Commission may contract with any agency, public or private, to provide for public utilities on such terms as are agreed upon. The Commission and the respective utilities may contract for the financing, construction and extension of sewerage, water, drainage, electricity, gas and other necessary public utilities in and through said development.

Section 21. To enable the Commission to perform the work herein provided, the State of Alabama, acting by and through the appropriate State Departments, is hereby authorized, empowered and directed to grant to the Commission a lease on state owned waterbottoms which are selected by the Commission as sites for the Deep Draft Harbor and Terminal, provided, however, that the mineral rights on any and all state lands shall be reserved to the State of Alabama.

Section 22. The Commission may lease or sublease lands leased from the State of Alabama and is authorized to negotiate and enter contracts or agreements with any public or private individual, or corporation for the construction and operation of a petroleum and commodity terminal as an interstate common carrier. In the event of the acquisition or use of any state owned waterbottoms on which there has been granted an oyster lease the private oyster leasee shall be reimbursed by the Commission for the actual market value of said lease. In the event of expropriation, the compensation to be paid shall be the actual market value of the property at the time of taking.

Section 23. Where the Commission deems it advisable and in the public interest to purchase machinery, equipment or vehicles of certain makes, kinds or types, the Commission may purchase those makes, kinds or types, but they shall not pay more than the actual market price for the machinery, equipment or vehicles.

Section 24. The Commission may enter into inter-governmental contract agreements with existing port authorities, individually, or with any city, municipality, or subdivision of the

state, and may engage jointly in the exercise of any power, the making of any improvements which each of the participating authorities may exercise or undertake individually under any provision of general or special law.

Section 25. The Commission is granted the power to incur debt and issue bonds by any of the means authorized by the Constitution and laws of the State of Alabama. Any revenue producing wharf, dock, warehouse, elevator, industrial facility or other structure owned by or to be acquired by the Commission from proceeds of bonds issued by it is hereby declared to be a revenue producing public utility as that term is used and defined by the Constitution and laws of the State in connection with the issuance of revenue bonds of political subdivisions of the State. As an additional grant of authority beyond other provisions of the Constitution, the Commission is authorized to issue negotiable bonds for any purpose within their delegated authority, and to pledge for the payment of the principal and interest of such negotiable bonds the income and revenues derived or to be derived from the properties and facilities maintained and operated by them or received by the Commission from other sources. Such negotiable bonds may be further secured by a conventional mortgage upon any or all of the property constructed or acquired, or to be constructed or acquired by them. To further secure such negotiable bonds the Commission may apply in whole or in part any money received by gift, grant, donation or otherwise from the United States, the State of Alabama, or any political subdivision thereof, unless otherwise provided by terms of the gift, devise, donation or similar grant.

Section 26. The Commission created by this act shall cease to exist upon the authorization of a bistate compact by the U. S. Congress for essentially the same purposes as this bill.

Section 27. The provisions of this act are severable. If any part of the act is declared to be invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 28. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 17, 1973.

Time: 3:30 P.M.

Act No. 1065 S. 658—Noonan and Pelham

AN ACT

To authorize the Governor on behalf of the State of Alabama to

seek appointment of a referee by the U. S. Congress, for the purpose of executing a compact with the State of Mississippi. This compact to be for the purpose of promoting the development of a Deep Draft Harbor and Terminal to be located on the continental shelf of the United States, in the Gulf of Mexico.

Be It Enacted by the Legislature of Alabama:

ARTICLE I. The purpose of this compact is to promote the development of a Deep Draft Harbor and Terminal to be located on the continental shelf of the United States, in the Gulf of Mexico, and to establish a joint interstate authority to assist in this effort.

Section 1. For the purpose of this act, the term "Deep Draft Harbor and Terminal" means a structure, series of structures, or facility of any type located on the continental shelf off the coast designed to accommodate deep draft vessels whose draft is greater than the depths of the present United States harbors and waterways commonly used by ocean-going traffic, and includes all functionally-related structures and facilities which are necessary or useful to the operation of the terminal whether on land or seaward of the main structure or facility.

Section 2. The Governor, on behalf of this State, is hereby authorized to execute a compact, in substantially the form as provided hereinafter, with the State of Mississippi.

ARTICLE II. The states which are parties to this compact (hereinafter referred to as "party states") do hereby establish and create a joint agency which shall be known as the Ameraport Deep Draft Harbor and Terminal Authority (hereinafter referred to as the "Authority"). The membership of which authority shall consist of the Governor of each party state and five (5) other citizens of each party state, to be appointed by the Governor thereof. Each appointive member of the Authority shall be a citizen of that state who is interested in the promotion and development of Deep Draft Harbor and Terminals, and in the economic and industrial development of the South and its sister states. The appointive members of the Authority shall serve for terms of four (4) years each. Vacancies on the Authority shall be filled by appointment by the Governor for the unexpired portion of the term. The members of the Authority shall not be compensated, but each shall be entitled to actual expenses incurred in attending meetings, or incurred otherwise in the performance of his duties as a member of the Authority. The members of the Authority shall hold regular quarterly meetings and such special meetings as its business may require. They shall choose annually a chairman and vice chairman from among their members, and the chairmanship shall rotate each year among the party states

in order of their acceptance of this compact. The secretary of the Authority (hereinafter provided for) shall notify each member in writing of all meetings of the Authority in such a manner and under such rules and regulations as the Authority may prescribe. The Authority shall adopt rules and regulations for the transaction of its business; and the secretary shall keep a record of all its business and shall furnish a copy thereof to each member of the Authority. It shall be the duty of the Authority, in general, to promote, encourage, and coordinate efforts of the party states to secure the development of a Deep Draft Harbor and Terminal. Toward this end, the Authority shall have power to hold hearings; to conduct studies and surveys of all problems, benefits, and other matters associated with the development of a Deep Draft Harbor and Terminal, and to make reports thereon; to acquire, by gift or otherwise, and hold and dispose of such money and property as may be provided for the proper performance of their function; to cooperate with other public or private groups, whether local, state, regional, or national, having an interest in the development of Deep Draft Harbors and Terminals; to formulate and execute plans and policies for emphasizing the purpose of this compact before the Congress of the United States and other appropriate offices and agencies of the United States; and to exercise such other powers as may be appropriate to enable it to accomplish its functions and duties in connection with the development of a Deep Draft Harbor and Terminal and to carry out the purposes of this compact.

ARTICLE III. The Authority shall appoint an executive secretary, who shall be the compact administrator. His term of office shall be at the pleasure of the Authority and he shall receive such compensation as the Authority shall prescribe. He shall maintain custody of the Authority's books, records, and papers, which he shall keep at the office of the Authority, and he shall perform all functions and duties, and exercise all powers and authorities, that may be delegated to him by the Authority.

ARTICLE IV. Each party state agrees that, when authorized by its Legislature, it will from time to time make available and pay over to the Authority such funds as may be required for the establishment and operation of the Authority. The contribution of each party state shall be equally shared.

ARTICLE V. Nothing in this compact shall be construed so as to conflict with any existing statute, or to limit the powers of any party state, or to repeal or prevent legislation, or to authorize or permit curtailment or diminution of any other harbor or terminal project, or to affect any existing or future co-

operative arrangement or relationship between any federal agency and a party state.

ARTICLE VI. This compact shall continue in force and remain binding upon each party state until the Legislature or Governor of each or either state takes action to withdraw therefrom; provided that such withdrawal shall not become effective until six (6) months after the date of the action taken by the Legislature or Governor. Notice of such action shall be given to the other party state or states by the Secretary of State of the party state which takes such action.

ARTICLE VII. There is hereby granted to the Governor, to the members of the Authority for Alabama and to the compact administrator all the powers provided for in said compact and in this Act. All officers of the State of Alabama are hereby authorized and directed to do all things falling within their respective jurisdictions which are necessary or incidental to carrying out the purposes of said compact. The members of the Authority appointed by the Governor of the State of Alabama under the provisions of Article II of the compact shall be with the advice and consent of the State Senate of Alabama.

ARTICLE VIII. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

ARTICLE IX. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Act No. 1066 S. 799—Clark

AN ACT

To give statutory recognition to the condominium form of ownership of real property in Barbour County and prescribe regulations therefor.

Be It Enacted by the Legislature of Alabama:

Section 1. Short Title—This law shall be known and may cited as the Barbour County Condominium Act.

Section 2. Purpose; cumulative—The purpose of this law to give statutory recognition to the condominium form of ownership of real property in Barbour County. It shall not be construed as repealing or amending any law now in effect except those in conflict herewith, and any such conflicting laws shall be affected only insofar as they apply to condominiums.

This Act does not supercede the Alabama Apartment Ownership Act, but is cumulative thereto.

Section 3. Definitions—As used in this law:

(1) Assessment means a share of the funds required for the payment of common expenses which from time to time is assessed against the unit owner.

(2) Association means the entity responsible for the operation of a condominium.

(3) Bylaws mean the bylaws for the government of the condominium as they exist from time to time.

(4) Common elements means the portions of the condominium property not included in the units.

(5) Common expenses means the expenses for which the unit owners are liable to the association.

(6) Common surplus means the excess of all receipts of the association, including but not limited to assessments, rents, profits and revenues on account of the common elements, over the amount of common expenses.

(7) Condominium is that form of ownership of condominium property under which units of improvements are subject to ownership by one or more owners, and there is appurtenant to each unit as part thereof an undivided share in the common elements.

(8) Condominium parcel means a unit together with the undivided share in the common elements which is appurtenant to the unit.

(9) Condominium property means and includes the land in a condominium, whether or not contiguous, and all improvements thereon and all easements and rights appurtenant thereto intended for use in connection with the condominium.

(10) Declaration, or declaration of condominium, means the instrument or instruments by which a condominium is created, and such instrument or instruments as they are from time to time amended.

(11) Limited common elements means and includes those common elements which are reserved for the use of a certain unit or units to the exclusion of other units.

(12) Operation, or operation of the condominium, means and includes the administration and management of the condominium property.

(13) Unit means a part of the condominium property which is to be subject to private ownership.

(14) Unit owner or owner of a unit means the owner of a condominium parcel.

Section 4. Condominium parcels; appurtenances; possession and enjoyment—

(1) A condominium parcel is a separate parcel of real property, the ownership of which may be in fee simple, or any other state in real property recognized by law.

(2) There shall pass with a unit as appurtenances thereto:

(a) An undivided share in the common elements.

(b) The exclusive right to use such portion of the common elements as may be provided by the declaration.

(c) An exclusive easement for the use of the air space occupied by the unit as it exists at any particular time and as the unit may lawfully be altered or reconstructed from time to time, which easement shall be terminated automatically in any air space which is vacated from time to time.

(d) An undivided share in the common surplus.

(e) Such other appurtenances as may be provided in the declaration.

(3) The owner of a unit is entitled to the exclusive possession of his unit. He shall be entitled to use the common elements in accordance with the purposes for which they are intended, but no such use shall hinder or encroach upon the lawful rights of owners of other units.

Section 5. Restraint upon separation and partition of common elements—

(1) The undivided share in the common elements which is appurtenant to a unit shall not be separated therefrom and shall pass with the title to the unit whether or not separately described.

(2) A share in the common elements appurtenant to a unit cannot be conveyed or encumbered except together with the unit.

(3) The shares in the common elements appurtenant to units shall remain undivided, and no action of partition of the common elements shall lie.

Section 6. Common elements—

(1) Common elements includes within its meaning the following items:

(a) The land on which the improvements are located and any other land included in the condominium property whether or not contiguous.

(b) All parts of the improvements which are not included with the units.

(c) Easements through units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services to units and the common elements.

(d) An easement of support in every portion of a unit which contributes to the support of a building.

(e) Installations for the furnishing of utility services to more than one unit or to the common elements or to a unit other than the unit containing the installation.

(f) The property and installations in connection therewith required for the furnishing of services to more than one unit or to the common elements.

(2) The declaration may designate other parts of the condominium property as common elements.

Section 7. Legal description of condominium parcels—Following the recording of the declaration, a description of a condominium parcel by the number or other designation by which the unit is identified in the declaration together with the recording data identifying the declaration shall be a sufficient legal description for all purposes. Such a description shall include all appurtenances to the unit concerned whether or not separately described, including but not limited to the undivided share in the common elements appurtenant thereto.

Section 8. Creation of condominiums; contents of declaration—

(1) A condominium may be created on lands owned in fee simple or held under a lease having a term initially in excess of ninety-eight years by recording in the public records of the division of the county wherein the land to be included is located a declaration executed with the formalities of a deed by all persons having title of record to such land or equitable ownership under such a leasehold interest as specified herein, which declaration shall contain or provide for the following matters:

(a) A statement submitting the condominium property to condominium ownership under the Barbour County Condominium Act.

(b) The name by which the condominium is to be identified, which name shall include the word condominium or be followed by the words a condominium.

(c) Legal description of the land included.

(d) An identification of each unit by letter, name, or number, or combination thereof, so that no unit bears the same designation as any other unit.

(e) Survey of the land and a graphic description of the improvements in which units are located and a plot plan thereof which together with the declaration are in sufficient detail to identify the common elements and each unit and their relative locations and approximate dimensions. Such survey, plot plan and description may be in the form of exhibits consisting of building plans, floor plans, maps, sketches, surveys or other means, provided that there shall be included or attached a certificate or certificates of an architect, engineer or surveyor authorized to practice in this state that such material, together with the wordings of the declaration, is a correct representation of the improvements described, and that there can be determined therefrom the identification, location, dimensions and size of the common elements and of each unit.

(f) The undivided shares, stated as percentages or fractions, in the common elements which are appurtenant to each of the units.

(g) The proportions or percentages and manner of sharing common expenses and owning common surplus.

(h) Voting rights of owners of units.

(i) Method of amendment of declaration.

(j) Bylaws.

(k) The name of the association and whether or not it is incorporated. If the association is not incorporated, the name and residence address of the person designated as agent to receive service of process upon the association. Such agent must be a resident of the state.

(l) Such other provisions not inconsistent with this law as may be desired, including but not limited to those relating to amendment of the declaration, values of the condominium property and of each unit or condominium parcel, statement of purpose for which condominium property and units are intended, designation of limited common elements, responsibility

for maintenance and repair of units, insuring of the condominium property against loss and the owners and association against liability, reconstruction or repair after casualty and votes required in connection therewith, use restrictions, limitation upon conveyance, sale, leasing, purchase, ownership and occupancy of the units, termination of the condominium.

(2) The declaration provided by subsection (1) may include such convenants and restrictions concerning the use, occupancy and transfer of the units as are permitted by law with reference to real property; provided, however, that the rule of property known as the rule against perpetuities shall not be applied to defeat a right given any person or entity by the declaration for the purpose of allowing unit owners to retain reasonable control over the use, occupancy and transfer of units.

(3) All valid provisions of the declaration shall be enforceable equitable servitudes and shall run with the land and shall be effective until the declaration is revoked.

Section 9. Recording of declaration—

(1) When duly executed with the formalities required for the execution of a deed, a declaration together with all exhibits thereto and all amendments thereof shall be entitled to record according to law as an agreement relating to the conveyance of land and when recorded in the public records of the division of the county where the land described in the declaration is located shall constitute constructive notice to creditors, subsequent purchasers and all other persons.

(2) Graphic descriptions of improvements constituting exhibits to a declaration, when accompanied by the certificate of an architect, engineer or surveyor elsewhere required, shall be recorded as a part of a declaration without approval of any public body or officer.

(3) The probate judge recording the declaration may for his convenience file or record the exhibits of a declaration in a separate book and shall indicate the place of filing or recording upon the margin of the record of the declaration.

Section 10. Amendment of declaration—

(1) An amendment of a declaration shall become effective when recorded according to law.

(2) An amendment shall be evidenced by a certificate executed with formalities of a deed and shall include the recording date identifying the declaration.

(3) Unless otherwise provided in the declaration as originally recorded, no amendment shall change any condominium parcel unless the record owner thereof and all record owners of liens thereon shall join in the execution of the amendment.

(4) Notwithstanding any other provision of this act or the declaration, the designation of the agent for the service of process named in the declaration may be changed from time to time by an instrument executed by the association with the formalities required for the execution of a deed and recorded among the public records of the county in which the condominium property is located.

Section 11. Bylaws—

(1) The operation of the condominium property shall be governed by bylaws, which shall be set forth in or annexed to the declaration. No modification of or amendment to the bylaws shall be valid unless set forth in or annexed to a duly recorded amendment to the declaration.

(2) The bylaws shall provide for the following:

(a) The form of administration, indicating the title of the officers and board of administration, if any, and specifying the powers, duties, manner of selection and removal, and compensation, if any, of officers and boards.

(b) Method of calling or summoning unit owners to assemble at meetings; the percentage of unit owners or voting rights required to make decisions, and to constitute a quorum. The foregoing requirements as to meetings are not to be construed, however, to prevent unit owners from waiving notice of meetings or from acting by written agreement without meetings, if so provided in the bylaws, the declaration or this law.

(c) Manner of collecting from the unit owners their shares of the common expenses.

(d) The method by which the bylaws may be amended consistent with the provisions of this law.

(3) The bylaws may provide for the following:

(a) Method of adopting and of amending administrative rules and regulations governing the details of the operation and use of the common elements.

(b) Such restrictions on and requirements respecting the use and maintenance of the units and the use of the common elements, not set forth in the declaration, as are designed to prevent unreasonable interference with the use of the units and common elements.

(c) Such other provisions not inconsistent with this law or with the declaration as may be desired.

Section 12. The Association—

(1) The operation of the condominium shall be by the association, the name of which shall be stated in the declaration. The declaration may require the association to be organized as a particular entity, such as but not limited to a corporation for profit or corporation not for profit, in which the owners of units shall be stockholders or members.

(2) The association, whether or not incorporated, shall be an entity which shall act through its officers and shall have the capability of contracting, bringing suit and being sued. If not incorporated the association shall be deemed to be an entity existing pursuant to this act and shall have power to execute contracts, deeds, mortgages, leases and other instruments by its officers. Service of process upon the association if not incorporated may be had by serving any officer of the association or by serving the agent designated for service of process. Service of process upon the association shall not constitute service of process upon any unit owners.

(3) No unit owner, except as an officer of the association, shall have any authority to act for the association.

(4) Unless limited by the declaration the powers and duties of the association shall include those set forth in this law. The powers and duties of the association shall include also those set forth in the declaration and bylaws.

(5) The association shall have the irrevocable right to have access to each unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any common elements, therein, or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the common elements or to another unit or units.

(6) The association shall have the power to make and collect assessments, and to lease, maintain, repair and replace the common elements.

(7) The association shall maintain accounting records according to good accounting practices which shall be open to inspection by unit owners at reasonable times and written summaries of which shall be supplied at least annually to unit owners. Such records shall include:

(a) A record of all receipts and expenditures.

(b) An account of each unit which shall designate the name and address of the unit owner, the amount of each as-

sessment, the dates and amounts in which the assessments come due, the amounts paid upon the account and the balance due.

(8) The association, whether or not incorporated, shall have the power unless prohibited by the declaration of condominium, articles of incorporation, or bylaws of the association, to purchase units in the condominium and to acquire and hold, lease, mortgage and convey the same.

Section 12.1. Associations to acquire and enter into agreements—In addition to any other provisions of this chapter, an association may acquire and enter into agreements whereby it acquires leaseholds, memberships and other possessory or use interests in lands or facilities including but not limited to country clubs, golf courses, marinas and other recreational facilities, whether or not contiguous to the lands of the condominium, intended to provide for the enjoyment, recreation or other use or benefit of the unit owners. All of such leaseholds, memberships and other possessory or use interests existing or brought into existence at the time of recording the declaration shall be set forth and fully described therein. Subsequent to the recording of the declaration, the association may not acquire or enter into agreements acquiring such leaseholds, memberships or other possessory or use interests except as authorized by the declaration and bylaws. The declaration and bylaws may declare the expenses of rental, membership fees, operations, replacements and other undertakings in connection therewith to be common expenses and may include covenants and restrictions concerning the use of the same by the unit owners and such other provisions not inconsistent with this law as may be desired.

Section 13. Maintenance; limitation upon improvement—

(1) The maintenance of the common elements shall be the responsibility of the association.

(2) There shall be no material alteration or substantial additions to the common elements except in the manner provided in the declaration.

(3) No unit owner shall make any alterations in the portions of the improvements of a condominium which are to be maintained by the association or remove any portion thereof, or make any additions thereto, or do any work which would jeopardize the safety or soundness of the building containing his unit or impair any easement.

(4) Any initial or original contracts first entered into by the condominium association or its fiduciaries or appointees for maintenance, management, or operation of condominium property shall be subject to cancellation at any time subsequent

to the time any individual unit owners assume control of their association, by vote of no less than 75 percent of said individual unit owners. In the case of a multiphase condominium project, the contracts for maintenance, management, or operation of the condominium property shall not be subject to cancellation as provided above until after the last association in the entire project comes under control of the individual unit owners, notwithstanding the fact that individual phases of the entire project may be closed out and control of the association as to those phases may be assumed by the individual unit owners. However, if not less than 75 percent of the individual unit owners in residence in those associations which are under control of the individual unit owners vote to cancel said contracts as to the building or buildings in which they reside, said contracts may be canceled as to such building or buildings, but this shall not affect the legal efficacy of said contracts as to common recreational areas or as to other buildings in the project.

Section 14. Common expenses and common surplus—

(1) Common expenses shall include the expenses of the operation, maintenance, repair, or replacement of the common elements, costs of carrying out the powers and duties of the association and any other expense designated as common expense by this law, the declaration or the bylaws.

(2) Funds for the payment of common expenses shall be assessed against unit owners in the proportions or percentages of sharing common expenses provided in the declaration.

(3) The common surplus shall be owned by unit owners in the shares provided in the declaration.

Section 15. Assessments; liability; lien and priority; interest; collection—

(1) A unit owner, regardless of how title is acquired, including without limitation a purchaser at a judicial sale, shall be liable for all assessments coming due while he is the owner of a unit. In a voluntary conveyance the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for his share of the common expenses up to the time of such voluntary conveyance, without prejudice to the rights of the grantee to recover from the grantor the amounts paid by the grantee therefor.

(2) The liability for assessments may not be avoided by waiver of the use or enjoyment of any common elements or by abandonment of the unit for which the assessments are made.

(3) Assessments and installments thereon not paid when due shall bear interest from the date when due until paid at the

rate provided in the declaration, not to exceed the rate allowed by law, and if no rate is provided then at the legal rate.

(4) The association shall have a lien on each condominium parcel for any unpaid assessments, and interest thereon, against the unit owner of such condominium parcel. If authorized by the declaration said lien shall also secure reasonable attorney's fees incurred by the association incident to the collection of such assessment or enforcement of such lien. Said lien shall be effective from and after the time of recording in the public records in the division of the county in which the condominium parcel is located of a claim of lien stating the description of the condominium parcel, the name of the record owner, the amount due and the date when due, and the lien shall continue in effect until all sums secured by the lien shall have been fully paid. Such claims of liens shall include only assessments which are due and payable when the claim of lien is recorded. Such claims of liens shall be signed and verified by an officer or agent of the association and shall then be entitled to be recorded. Upon full payment the party making payment shall then be entitled to be a recordable satisfaction of the lien. All such liens shall be subordinate to the lien of a mortgage or other lien recorded prior to the time of recording of the claim of lien.

(5) Liens for assessments may be foreclosed by suit brought in the name of the association in like manner as a foreclosure of a mortgage on real property. In any such foreclosure the unit owner shall be required to pay a reasonable rental for the condominium parcel, if so provided in the declaration of bylaws, and the plaintiff in such foreclosure shall be entitled to the appointment of a receiver to collect the same. The association shall have the power, unless prohibited by the declaration or bylaws, to bid in the condominium parcel at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Suit to recover a money judgment for unpaid assessments may be maintained without waiving the lien securing the same.

(6) Where the mortgagee of a first mortgage of record or other purchaser of a condominium unit obtains title to the condominium parcel as a result of foreclosure of the first mortgage, such acquirer of title, his successors and assigns, shall not be liable for the share of common expenses or assessments by the association pertaining to such condominium parcel or chargeable to the former unit owner of such parcel which became due prior to acquisition of title as a result of the foreclosure. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from

all of the unit owners including such acquirers, his successors and assigns.

(7) Any unit owner shall have the right to require from the association a certificate showing the amount of unpaid assessments against him with respect to his condominium parcel. The holder of a mortgage or other lien shall have the same right as to any condominium parcel upon which he has a lien. Any person other than the owner who relies upon such certificate shall be protected thereby.

Section 16. Termination—

(1) All of the unit owners may remove the condominium property from the provisions of this law by an instrument to that effect, duly recorded, provided that the holders of all liens affecting any of the condominium parcels consent thereto or agree, in either case by instruments duly recorded, that their liens be transferred to the undivided share of the unit owner in the property as hereinafter provided.

(2) Upon removal of the condominium property from the provisions of this law, the condominium property shall be deemed to be owned in common by the unit owners. Unless otherwise provided in the declaration, the undivided share in the property owned in common by each unit owner shall be the undivided share previously owned by such owner in the common elements.

(3) The condominium may be terminated in such other manner as may be prescribed in the declaration. After termination of a condominium in any manner, the liens upon condominium parcels shall be upon the respective undivided shares of the owners as tenants in common.

(4) The termination of a condominium shall not bar the creation of another condominium affecting the same property.

Section 17. Equitable relief—In the event of substantial damage to or destruction of all or a substantial part of the condominium property, and in the event the property is not repaired, reconstructed, or rebuilt within a reasonable period of time, any unit owner shall have the right to petition a court of equity having jurisdiction in and for the county where the condominium property is located for equitable relief, which may, but need not necessarily, include a termination of the condominium and a partition.

Section 18. Limitation of liability—

(1) The liability of the owner of a unit for common expenses shall be limited to the amounts for which he is assessed from time to time in accordance with this law, the declaration and bylaws.

(2) The owner of a unit shall have no personal liability for any damages caused by the association on or in connection with the use of the common elements. A unit owner shall be liable for injuries or damages resulting from an accident in his own unit to the same extent and degree that the owner of a house would be liable for an accident occurring within his house.

Section 19. Separate taxation of condominium parcels; survival of declaration after tax sale—

(1) Property taxes and special assessments assessed by municipalities, counties and other taxing authorities shall be assessed against and collected on the condominium parcels and not upon the condominium property as a whole. Each condominium parcel shall be separately assessed for ad valorem taxes and special assessments as a single parcel. The taxes and special assessments levied against each condominium parcel shall constitute a lien only upon such condominium parcel so assessed and upon no other portion of the condominium property.

(2) All provisions of a declaration relating to a condominium parcel which has been sold for taxes or special assessments shall survive and be enforceable after the issuance of a tax deed or other deed upon foreclosure of an assessment, certificate or lien, a tax deed, tax certificate, or tax lien, to the same extent that they would be enforceable against a voluntary grantee, immediate, mediate, or remote, of the owner of the title immediately prior to the delivery of the tax deed or other deed.

(3) Nothing contained in this act shall be construed to alter, amend, or expand the laws governing exemption of homesteads from taxation.

Section 20. Liens—

(1) Subsequent to recording the declaration and while the property remains subject to the declaration, no liens of any nature shall thereafter arise or be created against the condominium property as a whole except with the unanimous consent of the unit owners. During such period liens may arise or be created only against the several condominium parcels.

(2) Labor performed or materials furnished to a unit shall not be the basis for the filing of a lien pursuant to the mechanics' lien law against the unit or condominium parcel of any unit owner not expressly consenting to or requesting the same. No labor performed or materials furnished to the common elements shall be the basis for a lien thereon, but if duly authorized by the association such labor or materials shall be deemed to be

performed or furnished with the express consent of each unit owner and shall be the basis for the filing of a lien against all condominium parcels in the proportions for which the owners thereof are liable for common expenses.

(3) In the event a lien against two or more condominium parcels becomes effective each owner thereof may relieve his condominium parcel of the lien by payment of the proportionate amount attributable to his condominium parcel. Upon such payment it shall be the duty of the lienor to release the lien of record for such condominium parcel.

(4) Service or delivery of notices, papers or copies thereof permitted or required under the mechanics' lien law for or incident to the perfection or enforcement of liens arising from labor or materials furnished to the common elements, duly authorized by the association, may be effected by service on or delivery to the association. Suits to foreclose or otherwise enforce liens arising from labor or materials furnished to the common elements may be brought against the association and the owners of units shall not be deemed necessary parties to such suits.

Section 21. Zoning and building—All laws, ordinances and regulations concerning buildings or zoning shall be construed and applied with reference to the nature and use of such property without regard to the form of ownership. No law, ordinance or regulation shall establish any requirement concerning the use or location, placement or construction of buildings or other improvements which are, or may thereafter be subjected to the condominium form of ownership, unless such requirement shall be equally applicable to all buildings and improvements of the same kind not then or thereafter to be subjected to the condominium form of ownership.

Section 22. Authority to regulate—Buildings and streets included in a condominium property shall be subject to regulatory authority as are other buildings and streets, but streets which are common areas of a condominium need not be dedicated to the public; provided, however, that such streets shall be subject to use by public authorities and utilities for the providing of police, fire, health, utility, garbage, and other public and utility services.

Section 23. Remedies for violation—Each unit owner shall be governed by and shall comply with this law and the declaration and bylaws as they may exist from time to time. Failure to do so shall entitle the association or any other unit owner to recover sums due for damages or injunctive relief or both. Such actions may be maintained by the association or in the proper case by an aggrieved unit owner. Such relief shall not

be exclusive of other remedies provided by law.

Section 24. Full disclosure prior to sale—

(1) Prior to the initial sale or offering for sale of any condominium parcel, the seller or developer or his or its agent must make full disclosure of, and provide copies to the prospective buyer of, the following information relative to the condominium project:

(a) Copy of the declaration of condominium.

(b) Copy of the articles of incorporation or charter of the association.

(c) Copy of the bylaws of the association.

(d) Copy of the underlying ground lease or other document creating a right of use, if any, including terms and conditions and charges for same.

(e) Copy of the management or maintenance contract, if any, which shall specify the services to be rendered under the maintenance contract and the charges to be made thereunder.

(f) Copy of a projected operating budget for the condominium unit to be sold to the prospective buyer, including full details concerning the estimated monthly payments for the condominium unit, estimated monthly charges for maintenance or management of the condominium property, and monthly charges for the use, rental, or lease of recreational facilities.

(g) Copy of the sales brochure and a floor plan of the apartment to be purchased by the prospective buyer. There shall also be included in the sales brochure information showing the description and location of recreational facilities, parking facilities, and other common areas together with a statement indicating which of the facilities will be owned by the unit owners and which of the facilities will be owned by others.

(2) All of the information required by subsection (1) which is available at the time shall be furnished to the prospective buyer prior to execution of the contract for sale. Thereafter, no changes or amendments may be made in any of the items furnished to the prospective buyer which would materially affect the rights of the buyer or the value of the unit without obtaining the approval of the buyer. If all of the information is not available at the time of execution of the contract for sale, then the contract shall provide that it shall be voidable at option of the buyer at any time up until fifteen days after the last item of required information is furnished to the prospective buyer, which latter act shall occur no later than

ninety days prior to the closing of the sale. Failure on the part of the seller or his agent to make full disclosure as required herein shall entitle the buyer to rescind the contract for sale at any time prior to closing of the contract and to receive a refund of all deposit moneys paid with interest thereon at the highest rate then being paid on savings accounts, not inclusive of certificates of deposit, by savings and loan associations in the area in which the condominium property is located.

(3) This section shall not apply to any prospective condominium parcel sold or under option prior to the effective date of this act.

Section 25. Legislative Intent—It is the intention of the legislature of Alabama that any subsequent general or local act relating to condominiums shall not operate to repeal any of the provisions of this act unless the subsequent act or provision shall clearly show a legislative intention to repeal this act or provisions thereof.

Section 26. Severability—The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 27. Effective date—This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 17, 1973.

Time: 3:50 P.M.

Act No. 1067 S. 938—Wilson

AN ACT

Relating to all counties having populations of not less than 55,500 nor more than 56,500 inhabitants according to the most recent federal decennial census, abolishing the Board of Revenue, establishing in lieu thereof a commission and providing for election of a president and members of said commission for the nomination of members thereof from districts herein prescribed and to prescribe the functions, jurisdiction, powers, and duties of such commission and the president and members thereof.

Be It Enacted by the Legislature of Alabama:

Section 1. The Board of Revenue of Walker County created by Act No. 410, H. 324 of the Special Session of 1966 (Acts 1966, p. 555) is hereby abolished. However, the encumbent chairman

and associate members of the Board of Revenue shall continue to hold office, as the president and members, respectively, of Walker County Commission established by this act as provided in Section 2, until their successors are elected as therein prescribed.

Section 2. After this act takes effect the governing body of Walker County shall be Walker County Commission, and shall consist of a president and four associate members, all of whom shall be qualified electors of Walker County. The president and associate members shall each be elected by the qualified electors of the county at large. However, the associate members shall be nominated by the qualified electors of their respective districts. Each member shall at the time of his election and during his continuance in office, be a resident and qualified elector of the district for which he is elected. Walker County is hereby divided into four districts as follows: District No. 1 shall be composed of the following territory:

Begin at the Northwest corner of Section 19, Township 12 South, Range 8 West;

Thence, Southerly along the section lines to the Southwest corner of the Northwest ¼ of Section 6, Township 14 South, Range 8 West;

Thence, Easterly along the South line of the Northwest ¼ and the South line of the Northeast ¼ of Section 6 to its intersection with the East line of said section;

Thence, Southerly along the section lines to the Southwest corner of Section 8, Township 14 South, Range 8 West;

Thence, Easterly along the section lines to the intersection of the South line of Section 7, Township 14 South, Range 7 West with the West corporate limits of the City of Jasper, Alabama;

Thence, Northerly along said corporate limits to its intersection with the North corporate limits of the City of Jasper;

Thence, Easterly along said corporate limits to its intersection with a Northerly extension of the Southwest fork of the main channel of Town Creek;

Thence, generally Southerly, Southeasterly and Southerly, following the meanderings of the Southwest fork and of the main channel of Town Creek to its intersection with the center line of Wright Street;

Thence, Westerly along the center line of Wright Street to its intersection with the center line of Third Avenue;

Thence, Northerly along the center line of Third Avenue to its intersection with the center line of Park Avenue;

Thence, Westerly along the center line of Park Avenue to its intersection with the center line of Fourth Avenue;

Thence, Northerly along the center line of Fourth Avenue to its intersection with the center line of Sixth Street;

Thence, Westerly along the center line of Sixth Street to its intersection with the center line of Ninth Avenue;

Thence, Southerly along the center line of Ninth Avenue to its intersection with the center line of the right-of-way of the Southern Railroad;

Thence, Southeasterly and Southerly along the center line of the right-of-way of the Southern Railroad to its intersection with the South corporate limits of the City of Jasper at a point in Section 21, Township 14 South, Range 7 West;

Thence, Easterly along said corporate limits to its intersection with the East corporate limits of the City of Jasper.

Thence, Northerly along said corporate limits to its intersection with the South line of Section 12, Township 14 South, Range 7 West;

Thence, Easterly along the South line of said Section 12 to the Southeast corner thereof;

Thence, Northerly along the section lines to the Northeast corner of Section 13, Township 13 South, Range 7 West;

Thence, Easterly along the section lines to the intersection of the South line of Section 8, Township 13 South, Range 5 West with the boundary between Walker County, Alabama and Cullman County, Alabama;

Thence, generally Northwesterly along said boundary to its intersection with the boundary between Walker County, Alabama and Winston County, Alabama;

Thence, generally Northwesterly and Westerly along the boundary between Walker and Winston Counties to the Northwest corner of Section 19, Township 12 South, Range 8 West, which is the point of beginning.

District No. 2 shall be composed of the following territory:

Begin at the Northwest corner of Section 19, Township 12 South, Range 10 West on the boundary between Walker County, Alabama and Marion County, Alabama;

Thence, Southerly along said boundary to its intersection with the boundary between Walker County, Alabama and Fayette County, Alabama at the Southwest corner of Section 18, Township 13 South, Range 10 West;

Thence, Southerly along the boundary between Walker and Fayette Counties to the Southwest corner of Section 31, Township 13 South, Range 10 West;

Thence, Easterly along said boundary to the Northwest corner of Section 6, Township 14 South, Range 9 West;

Thence, Southerly along said boundary to the Southwest corner of Section 31, Township 15 South, Range 9 West;

Thence, Easterly along said boundary to the Southeast corner of Section 36, Township 15 South, Range 9 West;

Thence, Northerly along the section lines to the Southwest corner of Section 19, Township 15 South, Range 8 West;

Thence, Easterly along the South line of said Section 19 to the Southeast corner thereof;

Thence, Northerly along the section lines to the Northwest corner of the Southwest ¼ of Section 8, Township 15 South, Range 8 West;

Thence, Easterly along the half section line to intersect with the main channel of Lost Creek at a point on the half section line in Section 10, Township 15 South, Range 8 West;

Thence, Northerly and Northeasterly along the main channel of Lost Creek to its intersection with the South line of Section 2, Township 15 South, Range 8 West;

Thence, Easterly along the South line of said Section 2 to the Southeast corner thereof;

Thence, Northerly along the section lines to the Southwest corner of Section 13, Township 14 South, Range 8 West;

Thence, Easterly along the section lines to the intersection of the South line of Section 18, Township 14 South, Range 7 West with the West corporate limits of the City of Jasper at the Southeast corner of said Section 18;

Thence, Southerly along said corporate limits to its intersection with the South corporate limits of the City of Jasper;

Thence, Easterly along said corporate limits to its intersection with the West corporate limits of the City of Jasper at a point which is the Southwest corner of the Northeast ¼ of the Northeast ¼ of Section 20, Township 14 South, Range 7 West;

Thence, Easterly along the line between the Northeast ¼ of the Northeast ¼ of said Section 20 and the Southeast ¼ of the Northeast ¼ of said Section 20 to its intersection with the East line of said section;

Thence, Easterly along the line between the Northwest ¼ of the Northwest ¼ and the Southwest ¼ of the Northwest ¼ of Section 21, Township 14 South, Range 7 West and the line between the Northeast ¼ of the Northwest ¼ and the Southeast ¼ of the Northwest ¼ of said Section 21 to its intersection with the South corporate limits of the City of Jasper at the Southwest corner of the Northwest ¼ of the Northeast ¼ of said Section 21;

Thence, Easterly along said corporate limits to its intersection with the center line of the right-of-way of the Southern Railroad;

Thence, Northerly and Northwesterly along the center line of the right-of-way of the Southern Railroad to its intersection with the center line of Ninth Avenue;

Thence, Northerly along the center line of Ninth Avenue to its intersection with the center line of Sixth Street;

Thence, Easterly along the center line of Sixth Street to its intersection with the center line of Fourth Avenue;

Thence, Southerly along the center line of Fourth Avenue to its intersection with the center line of Park Avenue;

Thence, Easterly along the center line of Park Avenue to its intersection with the center line of Third Avenue;

Thence, Southerly along the center line of Third Avenue to its intersection with the center line of Wright Street;

Thence, Easterly along the center line of Wright Street to its intersection with the main channel of Town Creek;

Thence, generally Northerly and Northwesterly, following the meanderings of the main channel and the West fork of the main channel of Town Creek and its Northerly extension to its intersection with the North corporate limits of the City of Jasper;

Thence, Westerly along said North corporate limits to its intersection with the West corporate limits of the City of Jasper;

Thence, Southerly along said West corporate limits to its intersection with the Northeast corner of Section 18, Township 14 South, Range 7 West;

Thence, Westerly along the section lines to the Northwest corner of Section 17, Township 14 South, Range 8 West;

Thence, Northerly along the section lines to the Northeast corner of the Southeast ¼ of Section 6, Township 14 South, Range 8 West;

Thence, Westerly along the North line of the Southeast ¼ and the North line of the Southwest ¼ of said Section 6 to its intersection with the West line of said Section 6, Township 14 South, Range 8 West;

Thence, Northerly along the section lines to the Northeast corner of Section 24, Township 12 South, Range 9 West on the boundary between Walker County, Alabama and Winston County, Alabama;

Thence, Westerly along said boundary between Walker and Winston Counties to the Northwest corner of Section 19, Township 12 South, Range 10 West on the boundary between Walker and Marion Counties, which is the point of beginning.

District No. 3 shall be composed of the following territory:

Begin at the Northwest corner of Section 24, Township 14 South, Range 8 West;

Thence, Southerly along the section lines to the Southwest corner of Section 1, Township 15 South, Range 8 West;

Thence, Westerly along the North line of Section 11, Township 15 South, Range 8 West to its intersection with the main channel of Lost Creek;

Thence, Southwesterly and Southerly along the main channel of Lost Creek to its intersection with the line between the North ½ and the South ½ of Section 10, Township 15 South, Range 8 West;

Thence, Westerly along the half section lines to the Northwest corner of the Southwest ¼ of Section 8, Township 15 South, Range 8 West;

Thence, Southerly along the section lines to the Southwest corner of Section 20, Township 15 South, Range 8 West;

Thence, Westerly along the North line of Section 30, Township 15 South, Range 8 West to the Northwest corner thereof;

Thence, Southerly along the section lines to intersect the boundary between Walker County, Alabama and Fayette County, Alabama at the Northwest corner of Section 6, Township 16 South, Range 8 West;

Thence, Southerly along the boundary between Walker and Fayette Counties, to its intersection with the boundary between Walker County, Alabama and Tuscaloosa County, Alabama;

Thence, Easterly along said boundary to the Northwest corner of Section 3, Township 17 South, Range 8 West;

Thence, Southerly along the West line of said Section 3 to the Southwest corner thereof;

Thence, Easterly along the section lines and boundary between Walker and Tuscaloosa Counties to the Northwest corner of Section 7, Township 17 South, Range 7 West;

Thence, Southerly along said boundary to the Southwest corner of Section 31, Township 17 South, Range 7 West;

Thence, Easterly along said boundary to its intersection with the main channel of the Black Warrior River, which is also the boundary between Walker County, Alabama and Jefferson County;

Thence, generally Northeasterly and Northerly, following the meanderings of the main channel of the Black Warrior River, and along said boundary, to its intersection with the main channel of Mulberry Fork on the East line of Section 6, Township 17 South, Range 6 West;

Thence, generally Westerly, Northerly, Northeasterly and Northerly following the meanderings of the main channel of Mulberry Fork to its intersection with the East line of Section 23, Township 14 South, Range 6 West;

Thence, Northerly along the East line of said Section 23 and the East line of Section 14, Township 14 South, Range 6 West to the Northeast corner of said Section 14;

Thence, Westerly along the section lines to the intersection of the North line of Section 13, Township 14 South, Range 7 West with the East corporate limits of the City of Jasper;

Thence, Westerly and Southerly along said corporate limits to its intersection with the South corporate limits of the City of Jasper;

Thence, Westerly along said South corporate limits to the Southwest corner of the Northwest ¼ of the Northeast ¼ of Section 21, Township 14 South, Range 7 West;

Thence, Westerly along the South line of the Northeast ¼ of the Northwest ¼ of said Section 21 and the South line of the Northwest ¼ of the Northwest ¼ of said Section 21 to intersect the West line of said section at the Southwest corner of the Northwest ¼ of the Northwest ¼ of said Section 21;

Thence, Westerly along the South line of the Northeast ¼ of the Northeast ¼ of Section 20, Township 14 South, Range 7 West to intersect the South corporate limits of

the City of Jasper at the Southeast corner of the Northwest ¼ of the Northeast ¼ of said Section 20;

Thence, Westerly along said South corporate limits to its intersection with the West corporate limits of the City of Jasper;

Thence, Northerly along said West corporate limits to its intersection with the Northeast corner of Section 19, Township 14 South, Range 7 West;

Thence, Westerly along the section lines to the Northwest corner of Section 24, Township 14 South, Range 8 West, which is the point of beginning.

District No. 4 shall be composed of the following territory:

Begin at the Northwest corner of Section 18, Township 13 South, Range 6 West;

Thence, Southerly along the section lines to the Southwest corner of Section 7, Township 14 South, Range 6 West;

Thence, Easterly along the section lines to the Southeast corner of Section 11, Township 14 South, Range 6 West;

Thence, Southerly along the West line of Section 13, Township 14 South, Range 6 West and Southerly along the West line of Section 24, Township 14 South, Range 6 West to its intersection with the main channel of Mulberry Fork;

Thence, generally Southerly, Southwesterly, Southerly and Easterly following the meanderings of the main channel of Mulberry Fork to its intersection with the main channel of Black Warrior River on the East line of Section 6, Township 17 South, Range 6 West, which is also the boundary between Walker County, Alabama and Jefferson County, Alabama;

Thence, generally Northeasterly along said boundary between Walker and Jefferson Counties to its intersection with the boundary between Walker County, Alabama and Blount County, Alabama;

Thence, generally Northerly along said boundary between Walker and Blount Counties to its intersection with the boundary between Walker County, Alabama and Cullman County, Alabama;

Thence, generally Northwesterly along said boundary between Walker and Cullman Counties to its intersection with the North line of Section 17, Township 13 South, Range 5 West;

Thence, Westerly along the section lines to the Northwest

corner of Section 18, Township 13 South, Range 6 West, which is the point of beginning.

No person other than a resident qualified elector of one of such districts shall be qualified to represent that district on the new governing body of Walker County hereby established. A president and four associate members of the Walker County Commission shall be elected at the general election in 1976 and every four years thereafter. They shall hold office for four years from the first Monday after the second Tuesday in January next following their election, and until their successors are elected and qualified.

Section 3. The governing body of Walker County established by this act shall perform the same functions, exercise the same jurisdiction, authority and powers and perform the same duties prescribed by law for the governing body of Walker County when this act becomes effective, specifically including those duties enumerated in said Act No. 410 of the 1966 Special Session and those specified in Act No. 118 of the 1957 Regular Session, as such acts have been amended or supplemented. The president and associate members of the Walker County Commission, respectively, shall have and exercise the same powers, rights and authority, fulfill the same responsibilities and perform the same duties as those prescribed by law when this act becomes effective for the chairman and associate members of the county governing body of Walker County, including specifically those powers, duties and authority prescribed in said Act No. 410 of the 1966 Special Session and No. 118 of the Regular Session of 1957, as such acts have been amended or supplemented. In addition thereto the members shall meet on all days they have been heretofore required by law to meet and they shall hold at least one meeting during each quarter of each year at some place in each of the districts into which Walker County is hereinabove divided.

Section 4. The president and members of the Walker County Commission shall each devote their entire time to the duties of their office. For the performance of their official duties the president and each associate member shall receive a salary of $10,800 per annum. The salaries of the president and associate members shall be paid in equal monthly installments from any funds in the county treasury available for that purpose as provided by law and such salary shall be their entire compensation for their services.

Section 5. Before entering upon the discharge of their duties the president and associate members of the governing body hereby created shall each execute a bond. In the case of the president the bond shall be in the sum of $10,000. In the

case of an associate member the bond shall be in the sum of $5,000. The bonds shall be payable to Walker County, shall be conditioned as required by law, and shall be filed and recorded in the office of the judge of probate of Walker County. The premiums thereon shall be paid from the county treasury.

Section 6. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 7. All laws or parts of laws which conflict with this act are hereby repealed.

Section 8. This act shall become effective immediately upon its otherwise becoming a law.

Approved September 17, 1973.

Time: 4:00 P.M.

Act No. 1068 S. 940—Shelby

AN ACT

Relating to Tuscaloosa County to amend Sections 7, 11, 22, 23, 25, and 29, of Act No. 328, H. 854 (Acts 1959, p. 907, Vol. 2), as last amended, which bill relates to the Firemen's and Policemen's Pensions and Relief Fund for the City of Tuscaloosa, Alabama, changing the percentage composition of the fund, changing the percentage investments of the fund, prescribing limits for disability benefits and payments to dependents of members, and fixing the maximum monthly benefit for a fireman or policeman retiring on or after the effective date of this Amendatory Act.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 7 of Act No. 328, 1959 Regular Session (1959 Acts, p. 907, vol. 2), as last amended, is hereby amended to read as follows:

"Section 7. Said Firemen's and Policemen's Pension and Relief Fund shall be derived, obtained, and created as follows: A. From the salary of each fireman and each policeman there shall be deducted, and paid into said fund, an amount equal to *six* per-centum of the amount of such salary. Provided that whenever a member of the fire or police department of such city is ineligible to participate in the benefits of such fund by reason of the provisions of this Act, neither such ineligible member nor his salary nor other compensation shall be subject to any assessment for the benefit of such fund. B. Each fire insurance company, including mutual and industrial fire insurance companies, qualified to do business under the laws of

Alabama, and doing business in such city, shall annually and on or before the first day of March of each year hereafter, pay into said Firemen's and Policemen's Pension and Relief Fund, a sum equal to one and one-half per centum of the gross premiums, less return premiums, received by such fire insurance company for and on account of business, including all renewals of fire insurance, done by it in the city, during the preceding calendar year; and it shall be unlawful for any such fire insurance company or its agent, to take or receive any premium for insurance against fire within the city unless such fire insurance company shall pay, at the time aforesaid, to the said Firemen's and Policemen's Pension and Relief Fund, the amount herein provided to be paid by such fire insurance company; and any such fire insurance company violating any of the provisions of this section shall forfeit to the said Firemen's and Policemen's Pension and Relief Fund the sum of One Thousand Dollars, to be recovered against such fire insurance company so violating said provisions, or its agent, by suit brought in the name of the city for the use of such fund. Each person, firm or corporation, which conducts a fire insurance agency or brokerage business in such city, shall annually, within the first ten days of each year, make and file a sworn statement, in writing, with the city clerk of such city, as treasurer of such fund, giving the name and address of each fire insurance company which such person, firm or corporation represented or did business for, as agent or broker, during the preceding year; and any such person, firm or corporation conducting any such fire insurance agency or brokerage business in such city, violating the provisions of this section shall forfeit to the said Firemen's and Policemen's Pension and Relief Fund the sum of One Hundred Dollars to be recovered against such person, firm or corporation, so violating such provisions, by suit brought in the name of such city for the use of such fund and all such forfeitures and penalties provided for herein, when collected, shall be and become a part of said Firemen's and Policemen's Pension and Relief Fund. Provided, however, that the said sum equal to one and one-half per centum of gross premiums, less return premiums required by this paragraph of this section to be paid by fire insurance companies into said Firemen's and Policemen's Pension and Relief Fund shall be treated and held to be a part of the maximum a four per cent on each one hundred dollars, or major fraction thereof, of gross premiums, less return premiums, which any municipal corporation may by law impose upon any fire insurance company in any one year as a license or privilege tax for the privilege of doing business in such municipality during such year under Section 739 of Title 37 of the Code of Alabama of 1940 as amended or as the same may be amended. C. All firemen and policemen shall promptly pay into such fund all wit-

ness fees in criminal cases, and in cases in which they have been summoned by the city, received by them from any court in the county in which such city is situated, and all moneys received by them or any of them as a reward or gratuity for the apprehension of any person, the furnishing of any evidence, the recovery or saving of any property, services at any fire, or otherwise received by them for similar service or for work in the line of his duty. D. There shall be paid into such fund, as and when received, all liquor seizure fees received by any policeman or to which he may be entitled and all amounts received by the city from the State Alcohol Beverage Control Board for confiscated liquors and beverages delivered to it as required by law. E. The Board of Trustees may take by gift, grant, device or bequest, any money, personal property, real estate or any interest therein or any right of property; and any such gift, grant, device or bequest may be absolute or in fee simple or upon condition that only rents, income and profits arising therefrom shall be applied to the purposes for which said fund is created. F. The governing body of the city shall cause to be paid into such fund out of the treasury of such city, an amount equal to twelve per centum of the salary of each member of such fire and police department who is eligible to participate in the benefits of such fund, such payment to be made to such fund as and when such salary becomes payable, and deduction therefrom is made as provided in this section."

Section 2. Section 11 of Act No. 328, 1959 Regular Session (1959 Acts, p. 907, Vol. 2), As last amended, is hereby amended to read as follows:

"Section 11. Investment of Portion of Fund.

The Board of Trustees, after considering the probable demands upon the fund, may invest such portion of it as may be safely withdrawn for the purpose. Of that portion of the fund which the Board of Trustees has determined to be available for investment, not less than fifty per cent (50 per cent) shall be invested, or held for investment, in interest bearing bond or securities of the United States of America, bonds of any state in the United States, any bonds lawfully issued by municipalities in the United States, or invested in any insured savings and loan association to the extent that such investment is insured by the Federal Savings and Loan Insurance Corporation; or invested in any commercial bank to the extent that such investment is insured by the Federal Deposit insurance Corporation; not exceeding *fifty* per cent (*50* per cent) of the money deemed available for investment may be invested in corporate stocks and bonds; not exceeding thirty per cent (30 per cent) of the money deemed available for investment may

be invested in real estate loans, secured by a first mortgage thereon. All income from investments shall be and become a part of the fund. All securities belonging to the fund shall be deposited with the treasurer of the fund or, in the event that a financial agent has been employed, may be held by the financial agent and shall be subject to the direction and control of the Board of Trustees."

Section 3. Section 22 of Act No. 328, 1959 Regular Session (1959 Acts, p. 907, Vol. 2), As last amended, is hereby amended to read as follows:

"Section 22. Retirement by Reason of Service and Age.

Any fireman or policeman who has been in the service of the police or fire department for as long as twenty-five (25) years *without regard to his then attained age* or who has been in the service of said department for as long as twenty (20) years, and who has reached the age of sixty (60) years, upon application by him shall be retired and placed on the pension roll by said Board of Trustees."

Section 4. Section 23 of Act No. 328, 1959 Regular Session (1959 Acts, p. 907, Vol. 2), as last amended, is hereby amended to read as follows:

"Section 23. Monthly Benefits for Temporary Disability Arising as Result of Service in Department; Retirement for Permanent Disability.

Whenever the Board of Trustees shall determine that any fireman or policeman has become temporarily disabled, mentally or physically, for service in the department of which he is a member, and that such disability arose from any injury received or accident occurring while engaged in the performance of his duty or is otherwise a direct result of his service in such department the Board of Trustees shall order that such disabled fireman or policeman be paid monthly out of such funds, during the period of such disability, a sum equal to sixty-five (65) per cent of the monthly compensation paid such fireman or policeman as salary at the time of his having become so disabled; provided, that any benefits payable under this section shall be reduced by an amount equal to the amount, if any, which the beneficiary shall receive from such city as salary. The Board of Trustees shall be the sole judge of the extent and cause of any such disability and of the time when such disability has ceased to exist, and the Board's determination thereof shall be final. Whenever the Board of Trustees shall determine that such disability is, or has become, permanent, they shall retire such disabled person and place him upon the Pension Roll and pay him an initial monthly pension equal to

sixty-five (65) per cent of the monthly compensation paid such fireman or policeman at the time of his having become so disabled. *The maximum monthly benefit payable hereunder shall be three hundred dollars ($300),* and benefits under this section shall not be limited by Section 29 herein."

Section 5. Section 25 of Act No. 328, 1959 Regular Session (1959 Acts, p. 907, Vol. 2), as last amended, is hereby amended to read as follows:

"Section 25. Payments to Dependents of Member.

For the purpose of this section, children of any policeman or fireman who are under the age of eighteen (18) years, and also the widow of any policeman or fireman while unmarried shall be conclusively presumed to be entirely dependent upon such fireman or policeman.

If any fireman or policeman shall, while in the performance of his duty be killed, or die as a result of any injury received in the line of his duty, or shall die from any cause whatsoever as the result of his service, in such department and while in such service; or after having served in such department for more than ten years, the last five years of which were consecutive shall die from any cause while in the service or on the retired or disabled list, and shall leave a surviving spouse (if retired, to whom he was married at the time of his retirement) surviving him, and entirely dependent upon him, the Board of Trustees shall direct the payment to such surviving spouse monthly during his or her natural life, and while unmarried and entirely dependent on such payment, a sum equal to twenty-five per cent of such fireman's salary if a fireman, and twenty-five per cent of such policeman's salary if a policeman. If such fireman or policeman leaves surviving him a child or children under eighteen years of age, said Board shall direct the payment monthly from such fund to their surviving parent, whether married or unmarried, for their use and benefit, an amount equal to fifteen percent (15 percent) of such policeman's or fireman's salary at the time of his death for each child under eighteen years of age not to exceed in the aggregate an amount equal to forty-five percent of such salary, so long as such child or children live with their surviving parent and are under eighteen years of age and are supported by such surviving parent. If such child or children have no surviving parent, or such surviving parent dies during the time such child or children are entitled to such benefit, such sum may be paid by the Board of Trustees to the person having control and custody of such child or children or to such other person as said Board of Trustees may direct, to be expended by such person for the benefit of such child or children

as may be prescribed by said Board of Trustees. Should such deceased fireman or policeman leave no surviving spouse or child entitled to benefits as hereinabove set out, but a widowed mother entirely dependent upon him for support, said Board of Trustees shall pay to her monthly during her natural life and so long as she remains unmarried, a sum equal to twenty-five percent of such fireman's monthly salary, if a fireman, and a sum equal to twenty-five percent of such policeman's monthly salary, if a policeman. *The maximum benefit payable hereunder shall be two hundred dollars ($200) per month.*"

Section 6. Section 29 of Act No. 328, 1959 Regular Session (1959 Acts, p. 907, Vol. 2), as last amended, is hereby amended to read as follows:

"Section 29. Limitations on Amount of Pension Benefits. Under no circumstances shall any retired fireman or policeman be paid a pension or other benefit of more than One Hundred Twenty-five Dollars ($125.00) if he has contributed to the fund for less than five years, or more than One Hundred and Fifty Dollars ($150.00) per month if he has contributed to the fund for five years and less than ten years, or more than One Hundred Seventy-five Dollars ($175.00) per month if he has contributed to the fund for ten years and less than fifteen years, or more than Three Hundred Dollars ($300.00) per month if he has contributed to the fund for fifteen years or more. Provided, however, that the above Three Hundred Dollars limitation, only with regard to any fireman or policeman (including those on the retired list) who has contributed to the fund for fifteen years or more and who has twenty-five years or more of service in the department, may be increased by the Board of Trustees in such amount as an actuarial study may indicate is justified by the fund's condition. Such increase in the Three Hundred Dollar limitation, as herein authorized, shall be made by the Board of Trustees by resolution duly spread upon its Minutes, and no such increase shall be authorized unless and until an actuarial evaluation, made by some person, firm, or corporation experienced and nationally recognized in the field of actuarial evaluation, indicates the financial soundness of such increase. For the advice of the Board, such actuarial evaluation shall be requested at intervals, not exceeding twenty-four (24) months."

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 17, 1973.

Time: 4:00 P.M.

Act No. 1069 H. 112—Reed (T)

AN ACT

To make appropriations for support and maintenance of the Tuskegee Institute, located in Macon County.

Be It Enacted by the Legislature of Alabama:

Section 1. That there is hereby appropriated for each of the two fiscal years ending September 30, 1974, and September 30, 1975, respectively, the sum of one million, one hundred and ten thousand dollars ($1,110,000) out of funds in the Alabama Special Educational Trust Fund for the use and benefit of the Tuskegee Institute located at Tuskegee, Macon County. The appropriations shall be used for support and maintenance of the institute and for payment of current expenses, and shall be paid out on warrants of the State Comptroller, upon vouchers or requisitions signed by the chief executive officer of the institute as approved by the Governor.

Section 2. This Act shall become effective on October 1, 1973.

Approved September 17, 1973.

Time: 4:00 P.M.

Act No. 1070 H. 125—Jones (F)

AN ACT

To provide a cost of living increase to certain retired members of the Employees' Retirement System of Alabama.

Be It Enacted by the Legislature of Alabama:

Section 1. All words and phrases defined in Act No. 515, H. 93 of the Regular Session of 1945 (Acts of 1945, p. 734—now appearing the Code of Alabama, Recompiled 1958 and the Supplement thereto as Chapter 17, Sections 456 through 475 (56) of Title 55), as heretofore amended or superseded shall have the same meanings ascribed to them in such Act whenever used in this Act, unless the context clearly indicates that a different meaning is intended.

Section 2. On or after October 1, 1973, there is hereby provided to any State employee who is receiving a retirement allowance from the Employees' Retirement System of Alabama, or who was retired prior to or on October 1, 1973, an increase in his maximum retirement allowance in the amount of fifteen percent (15%).

Section 3. On or after October 1, 1973, there is hereby provided to any employee who was retired prior to October 1, 1973, as an employee participating in the Employees' Retirement System of Alabama under the provisions of Section 12 of said Act No. 515 of the 1945 Regular Session of the Legislature, as amended and supplemented, an increase in his maximum retirement allowance in the amount of fifteen percent (15%). The employer participating under said Section 12 as described above shall provide the funds necessary to pay the increase in retirement allowances as described herein.

Section 4. The board of control of the Employees' Retirement System of Alabama shall determine annually the amount required to pay the cost of the increased allowances under Section 2 of this Act and shall notify the chief fiscal officer of each employer the percentum rates of earnable compensation of the members required to be paid to the retirement system. The employer's payment on account of the increases provided in Section 2 of this Act shall be paid in the same manner and from the same source of funds as is provided in Section 8 of said Act No. 515 of the Regular Session of the Alabama Legislature of 1945, as amended or supplemented, it being the intent of the Legislature that the cost of providing the increases in Section 2 of this Act shall be distributed from all funds in proportion to the salaries paid therefrom for active members.

Section 5. There is hereby appropriated annually from the funds from which salaries are paid the amounts sufficient to carry out the provisions of Section 2 of this Act. In the case of those departments supported wholly by transfers from other State funds, there is hereby appropriated from the supporting funds such additional amounts as may be necessary to pay the employer contribution of each department so supported in the same proportion as the other State funds contribute to the support and maintenance of such departments.

Section 6. The board of control of the Employees' Retirement System of Alabama shall determine annually the amount required to pay the cost of the increased allowances as provided under Section 3 of this Act and shall notify each employer the amount required to be paid to the Employees' Retirement System. Such amount shall be paid monthly, or as designated by the board of control, to the Employees' Retirement System of Alabama by the employer providing such increases under Section 3 of this Act.

Section 7. The board of control of the Employee's Retirement of Alabama shall administer all the benefits provided by this Act under such rules and regulations as the said board of control may adopt, not inconsistent with this Act.

Section 8. The provisions of this Act are supplemental. It shall be construed in pari materia with other laws regulating and providing for the payment of retirement benefits to retired state employees; however, those laws or parts of laws which are in direct conflict or inconsistent herewith are hereby repealed.

Approved September 17, 1973.

Time: 4:00 P.M.

Act No. 1071 H. 805—Flippo

AN ACT

To amend Section 402 of Title 51, Code of Alabama of 1940, so as to provide for the deduction of certain dividends received by domestic and foreign corporations.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 402 of Title 51, Code of Alabama of 1940, is hereby amended to read as follows:

Section 402. In computing the net income of domestic corporations doing business in this state subject to the tax imposed by Section 398 of this title, there shall be allowed as deductions items described in the following numbered subsections of this section. In computing the net income of foreign corporations doing business in this state subject to the tax imposed by Section 398 of this title, there shall be allowed as deductions the items described in the following numbered subsections of this section, but only if, and to the extent that, such items are referable to or arise in connection with income of such corporations arising from sources within the State of Alabama; the proper apportionment and allocation of deductions of such foreign corporations with respect to the income arising from sources within and without the State of Alabama shall be determined under the rules and regulations prescribed by the department of revenue; provided that in the case of foreign corporations doing business partly within and partly without Alabama where income is apportioned and allocated to Alabama the expense incurred by such corporation in connection with earning such income shall be apportioned to Alabama in such manner as shall fairly reflect the net income of the corporation attributable to its operations in Alabama; provided, however, that none of the deductions allowed by subsection 12 of this section shall be subject to any such apportionment or allocation and all thereof shall be allowed in full, any provisions thereof to the contrary notwithstanding. Subject to the limi-

tations contained in the preceding sentence, there shall be allowed as deductions in computing the net income of corporations:

(1) All ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business including a reasonable allowance for salaries and other compensation for personal services actually rendered, and including rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title, or in which it has no equity.

(2) All interest paid or accrued within the taxable year on its indebtedness except on indebtedness incurred or continued to purchase or carry obligations or securities (other than obligations of the United States issued after September 24, 1917), the interest upon which is wholly exempt from taxation under this title as income to the taxpayer; in the case of a foreign corporation, the proportion of such interest which shall be deductible shall be a portion of such interest determined by the ratio the amount of its gross income from sources within the State of Alabama bears to the amount of its gross income from all sources both within and without the State of Alabama.

(3) Taxes paid or accrued within the taxable year (a) imposed by the authority of the United States, or (b) by authority of any of its possessions; (c) by the authority of any state or territory, or any county, school district, municipality, or other taxing subdivision of any state or territory not including income tax and not including those assessed for local benefits of a kind tending to increase the value of the property assessed but excluding the income taxes levied and imposed under this title. In the case of a foreign corporation taxes paid or accrued within the taxable year imposed by the authority of the State of Alabama or any county, school district, municipality or any other taxing subdivision of the State of Alabama excluding the income taxes levied and imposed under this title and the amount of taxes other than income taxes imposed by other authorities mentioned in this subsection (3) which shall be deductible by such foreign corporations shall be determined by the ratio that the gross income of the foreign corporation from sources within the State of Alabama bears to its gross income from all sources both within and without the State of Alabama; the amount of federal income tax which shall be deductible by such foreign corporation shall be determined by the ratio that the net income (as computed without any deduction for any applicable federal, state or local taxes on net income or any federal or state, or local taxes measured by net income) of the corporation on business done within Alabama bears to

its net income (as computed without any deduction for any applicable federal, state or local taxes on net income or any federal or state, or local taxes measured by net income) from business done both within and without the State of Alabama.

(4) Losses sustained during the taxable year and not compensated for by insurance or otherwise.

(5) Losses from debts ascertained to be worthless and charged off during the taxable year of such ascertainment, if sustained in the conduct of the regular trade or business of the taxpayer during the period covered by an Alabama tax law.

(6) A reasonable allowance for the exhaustion, wear and tear of property used in the trade, or business, including a reasonable allowance for obsolescence.

(7) In the case of mines, oil and gas wells, other natural deposits, and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case, based upon the cost, including cost of development not otherwise deducted, such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the department of revenue; in the case of leases the deduction allowed by this subsection shall be equitably apportioned between the lessor and the lessee.

(8) In the case of marine insurance companies, there shall be allowed amounts repaid to policyholders on account of premiums previously paid by them, and interest paid on such amounts between the ascertainment and the payment thereof.

(9) In the case of mutual insurance companies (other than mutual life or mutual marine insurance companies) requiring their members to make premium deposits to provide for losses and expenses, there shall be allowed the amount of premium deposits returned to their policyholders and the amount of premium deposits retained for the payment of losses, expenses and reinsurance reserves.

(10) Contributions or gifts made within the taxable year to recognized religious, charitable and scientific or educational institutions, or institutions for the prevention of cruelty to children or animals which are not operated for profit, and no part of the net earnings of which inures to the benefit of any private stockholder or individual, or contributions to the special fund for vocational rehabilitation authorized by section 7 of the United States Vocational Rehabilitation Act, the amount of such deduction not to be, however, in excess of five per centum of the taxpayer's net income as computed without the benefit of this subsection; such contributions or gifts shall be allowable

as deductions only where made to institutions recognized as institutions for the above purposes under rules and regulations prescribed by the department of revenue.

(11) If contributions are paid by an employer to or under a stock bonus, pension, profit-sharing or annuity plan, or if compensation is paid or accrued on account of any employee under a plan deferring the receipt of such compensation, such contributions or compensation shall be deductible, but only to the extent permitted by the following lettered paragraphs of this subsection:

(A) In the taxable year when paid, if the contributions are paid into a pension trust, and if such taxable year ends within or with a taxable year of the trust for which the trust is exempt under section 392 of this title in an amount which shall be determined as follows:

(i) an amount not in excess of 5 per centum of the compensation otherwise paid or accrued during the taxable year to all the employees under the trust, but such amount may be reduced for future years if found by the department of revenue upon periodical examinations at not less than five-year intervals to be more than the amount reasonably necessary to provide the remaining unfunded cost of past and current service credits of all employees under the plan, plus

(ii) Any excess over the amount allowable under subparagraph (i) of this paragraph (A) necessary to provide with respect to all of the employees under the trust the remaining unfunded cost of their past and current service credits distributed as a level amount, or a level percentage of compensation, over the remaining future service of each such employee, as determined under regulations prescribed by the department of revenue, but if such remaining unfunded cost with respect to any three individuals is more than 50 per centum of such remaining unfunded cost, the amount of such unfunded cost attributable to such individuals shall be distributed over a period of at least 5 taxable years, or

(iii) in lieu of the amounts allowable under subparagraphs (i) and (ii) of this paragraph (A): an amount equal to the normal cost of the plan, as determined under regulations prescribed by the department of revenue, plus, if past service or other supplementary pension or annuity credits are provided by the plan, an amount not in excess of 10 per centum of the cost which would be required to completely fund or purchase such pension or annuity credits as of the date when they are included in the plan, as determined under regulations prescribed by the department of revenue, except that in no case shall a deduction be allowed for an amount (other than the normal cost)

paid in after such pension or annuity credits are completely funded or purchased.

(iv) Any amount paid in a taxable year in excess of the amount deductible in such year under the limitations set forth in subparagraphs (i), (ii) and (iii) of this paragraph (A) shall be deductible in the succeeding taxable years in order of time to the extent of the difference between the amount paid and deductible in each such succeeding year and the maximum amount deductible for such year in accordance with the limitations set forth in subparagraphs (i), (ii) and (iii) of this paragraph (A).

(B) In the taxable year when paid, in an amount determined in accordance with paragraph (A) of this subsection, if the contributions are paid toward the purchase of retirement annuities and such purchase is a part of a plan which meets the requirements of subsection (5) of Section 392 of this title, and if refunds of premiums, if any, are applied within the current taxable year or next succeeding taxable year towards the purchase of such retirement annuities.

(C) In the taxable year when paid, if the contributions are paid into a stock bonus or profit-sharing trust, and if such taxable year ends within or with a taxable year of the trust with respect to which the trust is exempt and subsection (5) of section 392 of this title, in an amount not in excess of 15 per centum of the compensation otherwise paid or accrued during the taxable year to all employees under the stock bonus or profit-sharing plan. If in the taxable year beginning after July 7, 1945, there is paid into the trust, or a similar trust then in effect, amounts less than the amounts deductible under the preceding sentence, the excess, or if no amount is paid, the amounts deductible shall be carried forward and be deductible when paid in the succeeding taxable years in order of time, by the amount so deductible under this sentence in any such succeeding taxable year shall not exceed 15 per centum of the compensation otherwise paid or accrued during such succeeding taxable year to the beneficiaries under the plan. In addition, any amount paid into the trust in a taxable year beginning after July 7, 1945, in excess of the amount allowable with respect to such year under the preceding provisions of this paragraph (C) shall be deductible in the succeeding taxable years, in order of time, but the amount so deductible under this sentence in any one such succeeding taxable year together with the amount allowable under the first sentence of this paragraph shall not exceed 15 per centum of the compensation otherwise paid or accrued during such taxable year to the beneficiaries under the plan. The term "stock bonus or profit sharing trust," as used in this subparagraph, shall not include any trust

designed to provide benefits upon retirement and covering a period of years, if under the plan amounts to be contributed by the employer can be determined actuarially as provided in paragraph (A) of this subsection. If the contributions are made to two or more stock bonus or profit-sharing trusts, such trusts shall be considered a single trust for the purposes of applying the limitations in this subparagraph.

(D) In the taxable year when paid, if the plan is not one included in paragraphs (A), (B), or (C) of this subsection, if the employee's rights to or derived from such employer's contribution or such compensation are nonforfeitable at the time the contributions or compensation is paid.

(E) For the purposes of paragraphs (A), (B), and (C) of this subsection a taxpayer on the accrual basis shall be deemed to have made a payment on the last day of the year of accrual if the payment is on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof).

(F) If amounts are deductible under paragraphs (A) and (C), or (B) and (C), or (A), (B), and (C) of this section, in connection with two or more trusts, or one or more trusts and an annuity plan, the total amount deductible in a taxable year under such trusts and plans shall not exceed 25 per centum of the compensation otherwise paid or accrued during the taxable year to the persons who are the beneficiaries of the trusts or plans. In addition, any amount paid into such trusts or under such annuity plans in a taxable year beginning after July 7, 1945, in excess of the amount allowable with respect to such year under the preceeding provisions of this paragraph shall be deductible in the succeeding taxable years in order of time, but the amount so deductible under this sentence in any one such succeeding taxable year together with the amount allowable under the first sentence of this paragraph shall not exceed 30 per centum of the compensation otherwise paid or accrued during such taxable years to the beneficiaries under the trusts or plans. This paragraph shall not have the effect of reducing the amount otherwise deductible under paragraphs (A), (B), and (C), if no employee is a beneficiary under more than one trust, or a trust and an annuity plan. If there is no plan but a method of employer contributions or compensation has the effect of a stock bonus, pension, profit-sharing, or annuity plan, or similar plan deferring the receipt of compensation, this subsection (11) shall apply as if there were such a plan.

(12) All amounts invested during the taxable year in devices, parts of devices, systems or facilities used or placed in operation in the State of Alabama, or to be used or placed in

operation in the State of Alabama, primarily for the protection of the public and the public interest through the control, reduction or elimination of air or water pollution; provided, however, that in lieu of deducting such amounts, the corporation may elect to amortize all such amounts over such period (not exceeding the useful life of devices, parts, systems or facilities for which such amounts were expended) as it specifies in its tax return respecting the taxable year during which such amounts were expended, in which case it shall be entitled to appropriate deductions for the taxable years so specified; and provided further (a) that the taking of any deduction authorized by this subsection (12) shall be optional with the corporation; and (b) that if any such deduction is taken with respect to any such devices, parts of devices, systems or facilities, such corporation shall not be permitted any allowance for depreciation or obsolescence thereof otherwise allowable under this Section 402.

(13) The amounts received during taxable years beginning on or before December 31, 1968, as dividends from a corporation, or any subsidiary corporation of which the parent organization owns as much as fifty percent of the capital stock, which is taxable under this title upon the net income of the parent corporation or the subsidiary; the amounts received after December 31, 1968, as dividends (including liquidating dividends), whether received in cash or property or both, from a corporation or any subsidiary corporation which is either (A) taxable under this chapter upon its net income or (B) exempt from taxation under this chapter by virtue of being an insurance company upon which the statutes of Alabama impose a tax upon, measured by, or with respect to its premium income, if at the time of the receipt of such dividends the corporation receiving such dividends is the owner of stock in the corporation distributing such dividends: (a) possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote and (b) constituting at least 50 percent of the total number of shares of all classes of stock other than classes of stock which is limited and preferred as to dividends.

Section 2. This Act shall apply to taxable years beginning after December 31, 1972.

Section 3. If any provision of this Act or the application thereof under any set of facts or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 4. This Act shall become effective immediately

upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 17, 1973.

Time: 3:35 P.M.

Act No. 1072 H. 1541—Drake, St. John, Smith (P)

AN ACT

To further amend Section 1 of Act 383, H. 57, Regular Session 1965, (Acts 1965, p. 516), relating to the tax levied on farm machinery and equipment sold for agricultural purposes.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act 393, H. 57, Regular Session 1965 (Acts 1965, p. 516), an act levying a tax upon persons engaged in the business of selling at retail machines, machinery, and equipment used for agricultural purposes, is amended to read as follows:

"Section 1. There is hereby levied, in lieu of the state sales tax levied by Section 2 of Act No. 100, Second Special Session 1959 (Acts 1959, p. 298), a privilege or license tax against the person on account of the business activities engaged in and in the amount to be determined by the application of rates against gross sales, or gross receipts, as the case may be as follows:

"Upon every person, firm, or corporation engaged or continuing within this state in the business of selling at retail any machine, machinery, or equipment which is used in planting, cultivating, and harvesting farm products, or used in connection with the production of agricultural produce or products, livestock, or poultry on farms, and the parts of such machines, machinery, or equipment, attachments and replacements therefor which are made or manufactured for use on or in the operation of such machine, machinery, or equipment, and which are necessary to and customarily used in the operation of such machine, machinery, or equipment, an amount equal to one and one-half percent of the gross proceeds of the sale thereof. Provided, however, the one and one-half percent rate herein prescribed with respect to parts, attachments, and replacements shall not apply to any automotive vehicle or trailer designed primarily for public highway use, except farm trailers used primarily in the production and harvesting of agricultural commodities.

"Where any used machine, machinery, or equipment which is used in planting, cultivating, and harvesting farm products, or used in connection with the production of agricultural produce or products, livestock, and poultry on farms is taken in trade or in a series of trades as a credit or part payment on a sale of a new or used machine, machinery, or equipment, the tax levied herein shall be paid on the net difference, that is, the price of the new or used machine, machinery or equipment sold, less the credit for the used machine, machinery or equipment taken in trade."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 17, 1973.

Time: 3:35 P.M.

Act No. 1073 H. 1887—Smith (P), Mims

AN ACT

To amend Section 10, Act No. 227, H.2, Regular Session 1971 (Act 1971, p. 523), which Act authorizes and provides for the promotion of production, distribution, marketing, use, improvement and sale of soybeans.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 10 of Act No. 227, Regular Session of the Alabama Legislature 1971 is hereby amended to read as follows:

"Section 10. Majority vote required.—If in such referendum a majority or more of the soybean producers who are eligible to participate and who actually vote therein, shall vote in the affirmative and in favor of the levying and collection of the assessment proposed in such referendum, then such assessment shall be levied and collected in the manner hereinafter provided. All soybean producers who produced soybeans in the crop year immediately preceding the referendum shall be eligible to participate in said referendum. Following the referendum and within ten (10) days thereafter the certified association shall canvass, tabulate and publicly declare and announce the results thereof. The amount of the assessment levied upon the sale of soybeans shall not exceed one-half cent (½¢) per net bushel after deductions for foreign material on any soybeans sold by the producers thereof."

Section 2. This Act shall become effective immediately

upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 17, 1973.

Time: 3:15 P.M.

Act No. 1074 S. 427—Shelby

AN ACT

An Act, To amend Sections 1 and 3 of Act No. 470, S. 182, 1969 Regular Session (Acts of 1969, p. 912), entitled "An Act To provide for and regulate the payment of expenses of state officers and employees and persons traveling on official business for the State or any of its departments, institutions, boards, bureaus, commissions, councils, committees, and other like agencies," so as to raise the amount provided for in said sections.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 1 and 3 Act No. 470, S. 182, 1969 Regular Session (Acts of 1969, p. 912), are amended to read as follows:

"Section 1. The maximum amount allowable to a person traveling inside the State of Alabama in the service of the State or any of its departments, institutions, boards, bureaus, commissions, councils, committees, or other like agencies, for expenses other than transportation shall be fixed by the Governor at not more than twenty dollars per day, and such maximum or limit when fixed from time to time shall be uniform in operation as to all person traveling within the State on official business.

"No travel allowance shall be paid for a trip of less than six hours' duration. For travel which does not require an overnight stay, the traveler shall be paid a meal allowance of three dollars and fifty cents for a trip of from six to twelve hours' duration and for travel in excess of twelve hours duration the traveler shall be paid one such meal allowance and one-fourth of the per diem allowance.

"The per diem allowance provided for in this section shall not be paid to an employee stationed at the same place in the State for a period in excess of two consecutive months; after two consecutive months the amount of the allowance shall be reduced to thirteen dollars per day, provided, however, that the provisions of this section shall not apply to officers and employees of the State of Alabama when they incur expenses representing the State of Alabama in the encouragement and promotion of trade or industrial development

and on such occasions, when such representation is properly approved, such persons shall be reimbursed for the actual expenses incurred and paid by them; provided further that such representation must be approved in advance in writing by the Governor or by the Director of Finance when so designated by the Governor; nor shall the provisions of this section apply to examiners or other persons designated by the Superintendent of Insurance to examine or cause to be examined the domestic insurance corporations qualified in this state when the expense incurred by such persons shall be paid by or collected or received from such corporations examined under the provisions of Title 28, Section 54 (1)."

"Section 3. Persons traveling on official business for the state or any of its departments, institutions, boards, bureaus, commissions, councils, committees, or other like agencies in privately owned vehicles shall receive twelve cents per mile in lieu of their actual expenses for transportation."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 17, 1973.

Time: 4:35 P.M.

Act No. 1075 H. 1182—Turnham, Ellis, Wynot, O'Daniel, Agee, Bank, Drake, St. John, McDonald, Reed (T), Snell, Mims, Adams, Hale, Casey

AN ACT

To direct the State Department of Education to establish public kindergarten pilot programs in each of the congressional districts from which State Board of Education members are elected of the state.

Be It Enacted by the Legislature of Alabama:

Section 1. The State Department of Education is hereby directed to establish a center for early childhood education, in each of the congressional districts from which State Board of Education members are elected of this state, which shall be conducted as public kindergarten pilot programs.

Section 2. The State Department of Education is directed to provide for the establishment of such centers and work cooperatively with local boards of education in setting up programs in each center and will provide criteria and funds for employment of personnel, purchasing equipment and supplies

and other expenditures which are necessary to carry out the provisions of this Act.

Section 3. There is hereby appropriated to the State Dept. of Education from the Alabama Special Education Trust Fund the amount of $400,000 for each fiscal year beginning October 1, 1973 for carrying out the purpose of this Act.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 17, 1973.

Time: 3:25 P.M.

Act No. 1076 H. 1540—Drake, St. John, Smith (P)

AN ACT

To further amend Section 1 of Act 384, Regular Session 1965, (Acts 1965, p. 517), to levy an excise tax on the storage, use or other consumption in this state of certain tangible personal property purchased at retail, in lieu of the state use tax levied by Code 1940, Title 51, Section 788, as amended, and to provide for the enforcement and collection of such tax.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act No. 384, Regular Session 1965, (Acts 1965, p. 517), as amended, levying an excise tax on the storage, use or other consumption in this state of certain tangible personal property purchased at retail, in lieu of the state use tax levied by Code 1940, Title 51, Section 788, as amended, and to provide for the enforcement and collection of such tax, is amended to read as follows:

"Section 1. There is hereby levied and imposed an excise tax on the storage, use or other consumption in this state of any machine, machinery, or equipment, which is used in planting, cultivating, and harvesting farm products, or used in connection with the production of agricultural produce or products, livestock, or poultry, or farms, and the parts of such machines, machinery, or equipment, attachments and replacements therefor which are made or manufactured for use on or in the operation of such machine, machinery, or equipment, and which are necessary to and customarily used in the operation of such machine, machinery, or equipment, which is purchased at retail after the effective date of this Act, for storage, use or other consumption in this state, at the rate of one and one-half percent of the sales price of such property, regardless of

whether the retailer is or is not engaged in business in this state. The tax herein levied and imposed shall be in lieu of the excise tax levied and imposed by Section 788, Title 51, Code 1940, as amended. Provided, however, the one and one-half percent rate herein prescribed with respect to parts, attachments, and replacements shall not apply to any automotive vehicle or trailer designated primarily for public highway use except farm trailers used primarily in the production and harvesting or agricultural commodities.

"Every person storing, using or otherwise consuming in this state such tangible personal property purchased at retail shall be liable for the tax imposed by this Act, and the liability shall not be extinguished until the tax has been paid to this state; provided, however, that a receipt from a retailer maintaining a place of business in this state or a retailer authorized by the department of revenue under such rules and regulations as the commissioner of revenue may prescribe, to collect the tax imposed hereby and who shall for the purpose of this Act be regarded as a retailer maintaining a place of business in this state, given to the purchaser in accordance with the provisions of Section 791 of Title 51, Code 1940, as amended, shall be sufficient to relieve the purchaser from further liability for a tax to which such receipt may refer."

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 17, 1973.

Time: 3:35 P.M.

Act No. 1077 H. 1549—Hardin, Bassett

AN ACT

To further amend Act No. 168, H. 270, Special Session 1966 (Acts 1966, p. 190), as amended, relating to the Alabama Historical Commission by increasing the Commission membership.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 13 of Act No. 168, H. 270, Special Session 1966 (Acts 1966, p. 190), as amended, is further amended to read as follows:

"Section 13. The commission shall consist of twenty (20) members; one of whom shall be the governor; one of whom shall be the lieutenant governor; one of whom shall be the speaker of the house of representatives; one of whom shall be

the director of the department of archives and history; one of whom shall be the director of the state department of publicity and information; one of whom shall be the director of the department of conservation; one of whom shall be the director of the state building commission; and thirteen (13) other persons to be appointed by the governor; one of whom shall be selected from a list of three (3) nominees submitted by the Alabama council of the American institute of architects; one from a list of three (3) nominees submited by the Alabama historical association; one from a list of three (3) nominees submitted by the Alabama state chamber of commerce; one from a list of three (3) nominees submitted by the Alabama farm bureau federation; one from a list of three (3) nominees submitted by the president of the University of Alabama; one from a list of three (3) nominees submitted by the president of Auburn University; one from a list of three (3) nominees submitted by the president of the University of South Alabama; one from a list of three (3) nominees submitted by the president of Troy State University; one from a list of three (3) nominees submitted by the president of University of Montevallo; one from a list of three (3) qualified archaeologists nominated by the Alabama archaeological society; and three (3) from the state-at-large. Said nominees and appointees shall be persons who have demonstrated interest in and concern about the preservation of this state's rich history and traditions, and who are conversant with the history of the state and who are qualified to direct and supervise the work of the commission. The members appointed by the governor shall serve for terms of six (6) years each, except that the terms of the members of the first commission shall be three (3) years for one half (½) of the members appointed by the governor and six (6) years for the remaining members. After the expiration of the term of the initial members all members appointed by the governor shall be appointed for terms of six (6) years each. Any member of the commission may be removed by the governor for cause, and vacancies in the commission shall be filled by the governor by the appointment of a competent and qualified person for the unexpired term, from a list of three (3) nominees submitted to him by the organization which originally nominated the member being replaced."

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 17, 1973.

Time: 3:40 P.M.

Act No. 1078 H. 216—Flippo, Hill

AN ACT

To provide for transfer of certain members of the Employees' Retirement System of Alabama under Section 12 of Act 515 of 1945 Act as amended who are otherwise eligible to become members of the Teachers' Retirement System of Alabama under the provision of Act #2307 of the 1971 Legislature.

Be It Enacted by the Legislature of Alabama:

Section 1. All employees of City and County Boards of Education and Special Schools under the direct control of the State Board of Education now covered in the Employees' Retirement System of Alabama under the provisions of Section 12 of Act #515 of the 1945 Act, as amended, who would have been eligible for coverage in the Teachers' Retirement System of Alabama under the provisions of Act #2307 of the 1971 Legislature except for being covered in the Employees' Retirement System of Alabama, may be enrolled and transferred to the Teachers' Retirement System of Alabama by their Employer with all credits as has been established in the Employees' Retirement System of Alabama.

Section 2. Upon enrollment and transfer to the Teachers' Retirement System of Alabama, such employee shall be deemed to be a "teacher" under the Teachers' Retirement law and shall make contributions as all other teachers and shall receive benefits as all other teachers who enroll under the provisions of Act #2307 of the 1971 Leyislature.

Section 3. The accumulated contributions of each such employee under the Employees' Retirement System of Alabama shall be transferred to the Teachers' Retirement System of Alabama and credited to the employee's individual account in the Annuity Savings Fund under that System. As soon as practicable after the transfer of such employees, an actuarial valuation of the assets and liabilities under the Employees' Retirement System on account of each employer of such employees shall be made. On the basis of said valuation, the Actuary shall allocate the present assets of the Employees' Retirement System attributable to each such employer, exclusive of the member's accumulated contributions, as follows:

(1) First, an amount shall be allocated equal to the reserve required for retired employees and beneficiaries of deceased employees of the employer.

(2) Second, any remaining assets shall be allocated actuarially between the employees who shall have transferred to the Teachers' Retirement System and the employees, if any, who remain as members under the Employees' Retirement System.

The amount of assets allocated in step (2) above to the members who shall have transferred to the Teachers' Retirement System shall be transferred to that System and credited to the Pension Accumulation Fund of that System. If the employer will continue to participate in the Employees' Retirement System under the aforesaid Section 12, the Actuary shall redetermine the accrued liability contribution rate payable by the employer on the basis of the remaining membership. If the employer will not continue to participate in the Employees' Retirement System and the assets available for the allocation in step (1) above are insufficient to cover the reserve for retired employees and beneficiaries of deceased employees of the employer, the employer shall pay to the Employees' Retirement System the amount of the deficiency in a lump sum or, with the approval of the Board of Control, in installments over such period as the Board of Control may specify.

Section 4. Any liabilities created by these transfers shall be a continuing liability of the Teachers' Retirement System of Alabama and shall be included in the regular valuation of the Teachers' Retirement System liabilities and appropriations shall be made as determined in the Teachers' Retirement law governing such valuation and appropriation.

Section 5. Notwithstanding any other provision of this Act, any employee who is transferred to the Teachers' Retirement System of Alabama as provided in Section 1 of this Act shall be entitled to retire under said System prior to age 60 under the same conditions as provided by Act No. 1462 of the 1971 Legislature with respect to members of the Employees' Retirement System of Alabama and subject to the percentage reductions in the retirement allowance as provided by said Act. Any employee who is transferred to the Teachers' Retirement System of Alabama as provided in Section 1 of this Act and who became a member of the Employees' Retirement System prior to October 1, 1965, shall be entitled to a minimum annual retirement allowance upon retirement under the Teachers' Retirement System of Alabama of $72.00 multiplied by the number of years of his creditable service not in excess of 25 years, in the event of service retirement, or $54.00 multiplied by the number of years of his creditable service not in excess of 25 years, in the event of disability retirement.

Section 6. It being the intent and purpose of the Act to transfer the accruing liabilities, as well as past service liabilities to the Alabama Educational Trust Fund for those employees eligible for transfer and enrollment under this Act in the Teachers' Retirement System of Alabama, no refunds to Employing Unit shall be made in making such transfer.

Section 7. This Act shall take effect October 1, 1973 upon passage and approval by the Governor or upon its otherwise becoming law.

Approved September 17, 1973.

Time: 4:15 P.M.

Act No. 1079 H. 226—Lutz

AN ACT

To amend Title 52, Section 361, Code of Alabama 1940, as amended by adding new subsection nine (9) and renumbering existing subsections, to provide that a teacher may appeal to the State Tenure Commission in any instance when such teacher has been denied a formal hearing as required by Title 52, Sections 356 and 359, Code of Alabama 1940, as amended.

Be It Enacted by the Legislature of Alabama:

Section 1. Title 52, Section 361 Code of Alabama 1940, as amended is hereby amended to read as follows:

"Section 361. Finality of action of state tenure commission; review. The action of the state tenure commission in reviewing transfers of teachers or cancellation of teacher contracts, if made in compliance with the provisions of this chapter, and unless unjust, shall be final and conclusive. Whether such action complies with the provisions of this chapter and whether such action is unjust, may be reviewed by petition for mandamus filed in the circuit court of the county where said system is located.

"Section 361 (1). Cancellation of contract by teacher. No teacher, whether in continuing service status or not, shall be permitted to cancel his, or her, contract during the school term for which said contract is in effect, nor for a period of forty-five (45) days previous to the beginning of such school term, unless such cancellation is mutually agreed upon; any such teacher shall be permitted to cancel his, or her, contract at any other time by giving five days' written notice to the employing board of education. Any teacher cancelling his, or her, contract in any other manner than in this section provided shall be deemed guilty of unprofessional conduct and the state superintendent of education is hereby authorized to revoke or suspend the certificate of such teacher.

"Section 361 (2). Teacher deemed re-employed for succeeding school year unless notified. Any teacher in the public schools, whether in continuing service status or not, shall be

deemed offered re-employment for the succeeding school year at the same salary, unless the employing board of education shall cause notice in writing to be given said teacher on or before the last day of the term of the school in which the teacher is employed; and such teacher shall be presumed to have accepted such employment unless he, or she, shall notify the employing board of education in writing to the contrary on or before the fifteenth day of June. The employing board of education shall not cancel the contract of any teacher in continuing service status, nor cause notice of non-employment to be given to any teacher whether in continuing service status or not except by a vote of majority of its members evidenced by the minute entries of said board made prior to or at the time of any such action.

"Section 361 (3). Effect of leave of absence on continuing service status. Leave of absence for a period of one year for good cause may be granted to a teacher by the employing board of education without the impairment of the continuing status of a teacher; provided that for valid reason the board may extend the leave of absence for one additional year, and provided further that upon the request of a teacher who has heretofore or who shall hereafter enter the military service of the United States at a time when there is an existing state of war between the United States of America and any other country, leave of absence shall be granted to such teacher for the duration of the war and until the beginning of the school year next succeeding the date on which said teacher is released from said military service; and on or before which date, said teacher must give written notice to the employing board of education whether or not he desires to be re-employed by said board. If such notice is not received by the employing board of education, or if the teacher notifies the employing board on or before the date specified above that he does not desire re-employment, the employing board has no further responsibility with respect to re-employment of said teacher. The term military service of the United States, as used herein shall include the Army of the United States, the United States Navy, the Marine Corps, the Coast Guard, the Army Specialist Corps, the Women's Army Auxiliary Corps, and the Women's Volunteer Reserve of the United States Navy, those persons commissioned in the public health service, or those persons entering into the service of any similar organization heretofore or hereafter formed by the government of the United States. A teacher entering the military service of the United States. who is not on continuing service status but who has accumulated one or more years of teaching experience with an employing board of education immediately prior to entering military service, shall be given credit for such experience with the employing board

of education in attaining continuing service status, if such teacher is re-employed by said board of education within one year after the release of that teacher from miliary service.

"Section 361 (4). Commission created; secretary; legal adviser. There is hereby created a state tenure commission to consist of seven members, who shall be selected as hereinafter provided. The executive secretary of the Alabama Education Association shall be ex officio secretary of the state tenure commission, and the attorney general shall assign to the commission an assistant from his office who shall be the legal adviser to the commission.

"Section 361 (5). Appointment, terms and qualifications of members; vacancies; teacher's tenure not affected by membership. Within thirty days after this chapter takes effect, the members of the state tenure commission shall be selected as follows: one member shall be appointed by the governor from among the members of city and county boards of education for a term of seven years; one member shall be appointed by the state superintendent of education from among the county and city superintendents of education for a term of six years; one member, who shall not be a member of the teaching profession shall be appointed by the president of the Alabama congress of parents and teachers for a term of five years; two members, both of whom shall be currently employed as certified classroom teachers and both of whom shall have attained continuing service status under the teacher tenure law, shall be appointed by the president of the Alabama Education Association for terms of four years and three years, respectively; one member, who shall not be a member of the teaching profession, shall be appointed by the governor for a term of two years; and one member, who shall be currently employed as a certified principal or certified supervisor, shall be appointed by the state superintendent of education for a term of one year. During the thirty days immediately preceding the expiration of the respective terms of the members of the state tenure commission, each appointing authority designated herein shall appoint a successor member of the commission as provided herein for a term of seven years. Any provision to the contrary notwithstanding, however, each member of the commission shall serve until his successor is appointed. Any vacancy occurring on the commission shall be filled by appointment for the unexpired term in the same manner as the original appointment was made. Not more than one member of the tenure commission shall be appointed from any one congressional district. Membership on the commission shall not adversely affect the status of a teacher's tenure with the city or county board of education.

"Section 361 (6). Meetings; quorum. The state tenure commission shall meet at such times and places as may be determined by the chairman of the commission, or of a majority of its members. Any five members of the commission shall constitute a quorum for the transaction of its business. Provided, that the commission shall not meet on more than thirty days in any one year, nor shall any session of the commission continue for longer than five days.

"Section 361 (7). Compensation and expenses of members; appropriations. The members of the state tenure commission shall be entitled to receive fifteen dollars a day for each day the commission is in session and shall be reimbursed for necessary travel expenses incurred in going to and from meetings and in the performance of their duties at the same rates as provided for state employees. There is hereby appropriated to the state department of education for the fiscal year ending September 30, 1960, the sum of $5,000 and for the fiscal year ending September 30, 1961, the sum of $5,000 out of the funds in the Alabama Special Educational Trust Fund to be used for the compensation of members and expense of the state tenure commission.

"Section 361 (8). Commission to hear and determine appeals; finality of decisions. It shall be the duty of the state tenure commission to hear and determine appeal cases as provided in Section 360 of Title 52, Code of Alabama 1940, as amended, and the decisions of the state tenure commission shall be final to the extent provided by Section 361 of Title 52, Code of Alabama 1940.

"Section 361 (9). A teacher who has attained continuing service status and has been denied a hearing before the local board of education as required by Title 52, Section 356 or 359, Code of Alabama 1940, as amended, shall have the right to appeal directly to the state tenure commission for relief. The appeal shall state facts sufficient to allow the commission to determine tentatively whether or not the local board of education has complied with the provisions of Title 52, Sections 356 or 359, Code of Alabama 1940, as amended. The local board may answer or deny in writing the facts set out in the teacher appeal and if it fails to so deny, the facts set out in the appeal must be taken as true. The commission shall review the teacher's request and the local board's answer or denial and shall determine, with or without hearing, whether or not the local board of education has complied with the provisions of Title 52, Sections 356 or 359, Code of Alabama 1940, as amended, whichever is involved. Based upon its findings the state tenure commission shall (1) order a hearing before the local board, (2) determine that the teacher has been trans-

ferred or dismissed in violation of the law and rescind the action taken by the local board or (3) sustain the action taken by the local board. Action taken by the state tenure commission under this subsection shall be final to the extent provided under this chapter for any other action of the commission.

"Section 361 (10). Organization meeting; chairman and vice chairman. The state tenure commission shall hold a meeting in the city of Montgomery within thirty days after the members have been appointed as provided in this chapter for the purpose of organizing. The members shall elect a chairman and vice chairman from among their own number, who shall serve as such for one year from the date of his election.

"Section 361 (11). Rules, regulations and orders. The commission may adopt such rules, regulations, and orders as may be reasonably necessary to carry out its functions."

Section 2. This act shall become effective upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved September 17, 1973.

Time: 4:15 P.M.

Act No. 1080 H. 326—Mathews, McCorquodale, Turner, Pruitt, Manley, Reed (T) Cottingham

AN ACT

To make appropriations for support and maintenance of the Marion Institute, located in Perry County.

Be It Enacted by the Legislature of Alabama:

Section 1. That there is hereby appropriated for each of the two fiscal years ending September 30, 1974, and September 30, 1975, respectively, the sum of Two Hundred Thousand Dollars ($200,000.00), out of funds in the Alabama Special Educational Trust Fund for the use and benefit of the Marion Institute located at Marion, Perry County. The appropriations shall be used for support and maintenance of the institute and for payment of current expenses, and shall be paid out on warrants of the State Comptroller, upon vouchers or requisitions signed by the chief executive officer of the institute as approved by the Governor.

Section 2. This Act shall become effective October 1, 1973.

Approved September 17, 1973.

Time: 4:15 P.M.

Act No. 1081 H. 640—Jones (E), Boles, Dill, Doss, Timmons, Waggoner, Adwell, Falkenburg, Ellis

AN ACT

To provide for the compensation to be paid the Deputy District Attorneys who are elected byy the people, in all counties having a population of six hundred thousand or more, according to the last or any succeeding decennial federal census and to provide for the payment of the same, and to provide the date when said act shall go into effect.

Be It Enacted by the Legislature of Alabama:

Section 1. The Deputy District Attorneys, who are elected by the people, in all counties having a population of six hundred thousand or more according to the last or any succeeding decennial federal census, shall be paid by the State an annual salary of an amount equal to Two Thousand Dollars per year less than the salary which may now or hereafter be paid by the State to Circuit Judges in said counties, payable as salaries of other state officers are paid. Provided further that there shall be paid to the Deputy District Attorneys who are elected by the people in all counties having a population of six hundred thousand or more according to the last or any succeeding decennial federal census, from the general fund of the county treasurer in equal monthly installments an annual supplement to his salary payable by the State an amount equal to Two Thousand Dollars per year less than the salary supplement which may now or hereafter be paid by the said county to the Circuit Judges in such counties, so that the total annual salary of the Deputy District Attorneys, who are elected by the people, shall be Four Thousand Dollars per year less than the total annual salary of Circuit Judges in said counties.

Section 2. All laws or parts of laws which conflict with this act are repealed.

Section 3. This act shall become effective on the first Monday after the second Tuesday of January, 1975. This being the beginning of the next term of said Deputy District Attorneys.

Approved September 17, 1973.

Time: 4:15 P.M.

Act No 1082 H. 653—Doss, Drake, Bowers, Falkenburg, Gafford, Boutwell, McBride, Ellis, Jones (E), Dill, Wallace, Erdreich, Casey, Manley, Harris, Jones (F), Merrill, Timmons, Smith (P), Lutz, Adwell, Naramore, Stewart,

Waggoner, Carnes, Brassell, Headley, Mims, Roberts, Wood, O'Daniel, Perloff, Bank, Grey (D), Reid (R), Hale, Goodwin, Reynolds, Crowe, Flippo, Hill, Parker, McCluskey, Nettles, St. John, Adams, Waldrop, King, Hearn, Boles, Agee, Wynot, Grainger, Collins, Weeks, Chesnut, Culver, McMillan, Hughes, McNair, Crowe

AN ACT

To further amend Act No. 288, approved July 7, 1945, (General Acts 1945 p. 478), an act providing for appointment and designation of Supernumerary Circuit Judges.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act 288, approved July 7, 1945, an act providing for appointment and designation of Supernumerary Circuit Judges (General Acts 1945, p. 478), as amended, is amended further to read as follows:

"Section 1. Any Circuit Judge, or former Circuit Judge of this state:

'(a). Who has served continuously for twelve years as circuit judge and/or district attorney, and/or circuit solicitor, and/or as judge of a court of record; and who has become physically unable to carry out his duties on a full time basis, proof of such disability being made by certificate of three reputable physicians; or

'(b). Who has served for fifteen years as circuit judge and/or district attorney, and/or circuit solicitor, and/or judge of a court of record; and who is not less than sixty-two years of age; or, who has served as such for more than fifteen years and has attained age 62 less one year for each year of service in excess of 15; or

'(c). Who has served continuously for ten years as circuit judge and/or district attorney, and/or circuit solicitor, and/or as judge of a court of record (provided that not more than three years service as a judge of a court of record shall be included in the total number of years served); and who is not less than seventy years of age; or

'(d). Who has served in that office and/or as circuit solicitor, and/or as district attorney, and/or as judge of a court of record (provided that not more than three years service as a judge of a court of record shall be included in the total num-

ber of years served); for not less than 24 years, or for not less than four terms, the last 10 years of such service having been continuous, may elect to become a supernumerary circuit judge of the state by filing a written declaration to that effect with the governor at any time not more than 90 days prior to the end of the 24 year period; or

'(e). Who has served for at least seventeen years as a circuit judge and/or circuit solicitor, and/or district attorney, and/or deputy circuit solicitor, and/or deputy district attorney (provided that he has served more than five years as a circuit judge; provided further that his service as a circuit solicitor, and/or district attorney, and/or deputy circuit solicitor, and/or deputy district attorney, counted to meet the required period of seventeen years of service is continuous; provided further that his appointment to the office of deputy circuit solicitor, and/or deputy district attorney was made by the circuit solicitor, and/or district attorney who immediately succeeded him in the office of circuit solicitor, and/or district attorney and provided further that his service as deputy circuit solicitor, and/or deputy district attorney terminated not more than three years prior to his first assuming the office of circuit judge) and who is not less than eighty years of age; or

'(f). Who has served for not less than ten years as a circuit judge and/or as a judge of a court of record (provided that at least seven years of service, of the total of ten years, be as a circuit judge); and who has served not less than nineteen years as a district attorney and/or circuit solicitor and/or, deputy district attorney and/or deputy circuit solicitor and who has attained age 63; or

'(g). Who has served continuously for not less than eighteen years as a circuit judge; may elect to become a supernumerary circuit judge of the state by filing a written declaration to that effect with the governor. *If any circuit judge of the state has served as a member of the legislature of Alabama or as a judge of a court of record, then he may elect in his written declaration to the governor to count the years of service in the legislature, or court of record as judicial service in the position of circuit judge, provided that not more than two and one-half years service in the legislature or court of record shall be included in the total number of years served.* If the governor shall find that any such declarant qualified under either subdivision (a), (b), (c), (d), (e), (f), or (g), hereinabove set forth, a commission as supernumerary circuit judge of the state of Alabama shall thereupon be issued to such declarant by the governor. The office of circuit judge made vacant by the election of such declarant shall be filled by appointment of the governor as now provided by law. This

section shall apply only to circuit judges who have been elected to that office, and are serving as circuit judges at the time of passage of this act.

Section 2. All laws or parts of laws which conflict with this Act are repealed.

Section 3. The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. This Act shall become effective upon its passage and approval by the Governor on its otherwise becoming law.

Approved September 17, 1973.

Time: 4:15 P.M.

Act No. 1083 H. 667—Manley, Pruitt

AN ACT

To provide for the adoption of adult persons and to declare the rights of the adopter and the adopted person.

Be It Enacted by the Legislature of Alabama:

Section 1. Any resident of Alabama over the age of 21 years desiring to adopt another adult person so as to make such person capable of inheriting his real and personal estate may file a petition for an order of adoption in the office of the probate judge of the county where he resides. Such petition shall be attested by two witnesses and acknowledged by the petitioner before the judge of probate, and shall contain the name, sex, and age of the person to be adopted, and the name the petitioner wishes such person to be known by. The petition for adoption shall be accompanied by the notarized written consent to the adoption by the person to be adopted. After the filing of the petition for adoption and the filing of the consent of the person to be adopted the probate judge shall make an order of adoption in accordance with the petition. The order, the petition, and the consent shall be recorded in the office of the judge of probate and be made a permanent record therein.

Section 2. Upon the entry of a final order of adoption under this Act the judge or the clerk of the court shall notify the registrar of vital statistics of the department of public health and send such registrar a copy of such order, petition, and consent.

Section 3. For the purposes of inheritance of property under the laws of descent and distribution an adopted person shall bear the same relation to his adopter and the natural and adopted children of the adopter as if he were the natural child of such adopting person. It is intended hereby to give an adopted person all right of inheritance from the person who adopts him, and through him from his natural and adopted children, and to give to the adopting person and his natural and adopted kindred all rights of inheritance from the adopted person and his decendants, including adopted children, the same as if such adopted person were born to the adopting person as a legitimate child. An adopted person's surviving spouse and decendants, including adopted children, shall inherit through such adopted person from the adopting person and his children the same as if he were born to the adopting person in lawful wedlock. Where an adopter is the spouse of a natural parent of an adopted child, such natural and adopted parent and kindred shall inherit from the adopted child the same as natural parents and kindred unless otherwise specifically provided in the final decree of adoption. Nothing in this Act shall be construed as debarring a legally adopted person from inheriting property from his natural parents or other kin.

Section 4. The provisions of this Act shall not be construed to affect adversely any rights which have vested prior to the effective date of its enactment, and nothing herein shall be considered to change, modify, or repeal in any respect the provisions of Code of Alabama 1940, Title 27, Sections 1-9 relating to the adoption of minor children.

Section 5. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 6. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 17, 1973.

Time: 4:15 P.M.

Act No. 1084 H. 669—Pruitt, McCorquodale, Lyons

AN ACT

To amend Section 2 of Act No. 63 passed at the Extraordinary Session of the Legislature of Alabama of 1971 and approved April 27, 1971, relating to the uniform disposition of unclaimed and abandoned property, so as to provide for the disposition of traveler's checks and

money orders that have been outstanding for more than 15 years from the date of issuance; to amend Section 11 of said Act to provide for the omission from the report required by Section 11 of certain information as to traveler's checks and money orders; to amend Section 12 of said Act so as to exempt sums payable on traveler's checks and money orders from the provisions of Section 12; and to amend Section 13 of said Act in the case of sums payable on traveler's checks or money orders presumed abandoned, to provide for the payment of such sums within 20 days after the filing of the report required by Section 11.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 2 of Act No. 63 passed at the Extraordinary Session of the Legislature of Alabama of 1971 and approved April 27, 1971 is hereby amended to read as follows:

"Section 2. Property Held by Banking or Financial Organizations or Business Associations. The following property held or owing by a banking or financial organization or by a business association is presumed abandoned:

(a) Any demand, savings, or matured time deposit made in this state with a banking organization, together with any interest or dividend thereon, excluding any charges that may lawfully be withheld, unless the owner has, within seven years:

(1) Increased or decreased the amount of the deposit, or presented the passbook or other similar evidence of the deposit for the crediting of interest; or

(2) Corresponded in writing with the banking organization concerning the deposit; or

(3) Otherwise indicated an interest in the deposit as evidenced by a memorandum on file with the banking organization. Any correspondence in writing from a banking organization to the owner, such as the mailing of a statement, report of interest paid or credited or other written advice relating to such deposit, shall be construed to mean that the owner has indicated an interest in the deposit if such correspondence in writing is not returned to the banking organization for non-delivery thereof.

(4) For purposes of subsections (a) (1), (2) and (3) hereinabove, any activity or indication of interest by an owner in any other deposits in a banking organization shall be construed to be activity and indication of interest in all other deposits of such owner in the banking organization.

(b) Any funds paid in this state toward the purchase of shares or other interest in a financial organization or any deposit made therewith in this state, and any interest or dividends thereon, excluding any charges that may lawfully be withheld, unless the owner has within seven years:

(1) Increased or decreased the amount of the funds or deposit, or presented an appropriate record for the crediting of interest or dividends; or

(2) Corresponded in writing with the financial organization concerning the funds or deposit, or

(3) Otherwise indicated an interest in the funds or deposit as evidenced by a memorandum on file with the financial organization. Any correspondence in writing from a financial organization to the owner, such as the mailing of a statement, report of interest or dividends paid or credited, or other written advice relating to such shares or other interest in such financial organization shall be construed to mean that the owner has indicated an interest in such shares if such correspondence in writing is not returned to the financial organization for nondelivery thereof.

(4) For purposes of subsections (b) (1), (2) and (3) hereinabove, any activity or indication of interest by an owner in any other shares in a financial organization shall be construed to be activity and indication of interest in all other shares of such owner in the financial organization.

(c) Any sum payable on checks certified in this state or on written instruments issued in this state on which a banking or financial organization or business association is directly liable, including, by way of illustration but not of limitation, certificates of deposit, drafts, money orders and travelers' checks, that, with the exception of travelers' checks, has been outstanding for more than seven years from the date it was payable, or from the date of its issuance if payable on demand, or in the case of traveler's checks, that has been outstanding for more than fifteen years from the date of its issuance, unless the owner has within seven years, or within fifteen years in the case of traveler's checks, corresponded in writing with the banking or financial organization or business association concerning it, or otherwise indicated an interest as evidenced by a memorandum on file with the banking or financial organization or business association.

(d) Any funds or other personal property, tangible or intangible, removed from a safe deposit box or any other safekeeping repository or agency or collateral deposit box in this state on which the lease or rental period has expired due to nonpayment of the rental charges or other reason, or any surplus amounts arising from the sale thereof pursuant to law, that have been unclaimed by the owner for more than seven years from the date on which the lease or rental period expired."

Section 2. Section 11 of Act No. 63 passed at the Extraordinary Session of the Legislature of Alabama of 1971 and approved April 27, 1971 is hereby amended to read as follows:

"Section 11. Report of Abandoned Property.

(a) Every person holding funds or other property, tangible or intangible, presumed abandoned under this Act shall report to the Commissioner of Revenue with respect to the property as hereinafter provided.

(b) The report shall be verified and shall include:

(1) Except with respect to traveler's checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of the value of $10.00 or more presumed abandoned under this Act:

(2) In case of unclaimed funds of life insurance corporations, the full name of the insured or annuitant and his last known address according to the life insurance corporation's records;

(3) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due;

(4) The date when the property become payable, demandable, or returnable, and the date of the last transaction with the owner with respect to the property; and

(5) Other information which the Commissioner of Revenue prescribes by rule as necessary for the administration of this Act.

(c) If the person holding property presumed abandoned is successor to other persons who previously held the property for the owner, or if the holder has changed his name while holding the property, he shall file with his report all prior known names and addresses of each holder of the property.

(d) The initial report required under this act shall be filed on or before August 1, 1971, as of May 1, 1971. Thereafter reports shall be filed before November 1 of each year as of June 30 next preceding, but the reports filed by insurance corporations shall be filed before May 1 of each year as of December 31 next preceding. The Commissioner of Revenue may postpone the reporting date upon written request by any person required to file a report.

(e) If the holder of property presumed abandoned under this Act knows the whereabouts of the owner and if the owner's claim has not been barred by the statute of limitations,

the holder shall, before filing the annual report, communicate with the owner and take necessary steps to prevent abandonment from being presumed. The holder shall exercise due diligence to ascertain the whereabouts of the owner.

(f) Verification, if made by a partnership, shall be executed by a partner; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer."

Section 3. Section 12 of Act No. 63 passed at the Extraordinary Session of the Legislature of Alabama of 1971 and approved April 27, 1971 is hereby amended to read as follows:

"Section 12. Notice and Publication of Lists of Abandoned Property.

(a) Within 120 days from the filing of the reports required by Section 11, the Commissioner of Revenue shall cause notice to be published at least once each week for two successive weeks in an English language newspaper of general circulation in the county in this state in which is located the last known address of any person to be named in the notice. If no address is listed or if the address is outside this state, the notice shall be published in the county in which the holder of the abandoned property has his principal place of business within this state.

(b) The published notice shall be entitled "Notice of Names of Persons Appearing to be Owners of Abandoned Property." and shall contain:

(1) The names in alphabetical order and last known addresses, if any, of persons listed in the report and entitled to notice within the county as hereinbefore specified.

(2) A statement that in formation concerning the amount or description of the property and the name and address of the holder may be obtained by any person possessing an interest in the property by addressing an inquiry to the Commissioner of Revenue.

(3) A statement that if proof of claim is not presented by the owner to the holder and if the owner's right to receive the property is not established to the holders satisfaction, within 65 days from the date of the second published notice, the abandoned property will be placed not later than 85 days after such publication date in the custody of the Commissioner of Revenue to whom all further claims must thereafter be directed.

(c) The Commissioner of Revenue is not required to publish in such notice any item of less than $50.00 unless he deems such publication to be in the public interest.

(d) Within 120 days from the receipt of the reports required by Section 11, the Commissioner of Revenue shall mail a notice to each person having an address listed therein who appears to be entitled to property of the value of $50.00 or more presumed abandoned under this Act.

(e) The mailed notice shall contain:

(1) A statement that, according to a report filed with the Commissioner of Revenue, property is being held to which the addressee appears entitled.

(2) The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder.

(3) A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the Commissioner of Revenue to whom all further claims must be directed.

(f) This section is not applicable to sums payable on traveler's checks or money orders presumed abandoned under Section 2."

Section 4. Section 13 of Act No. 63 passed at the Extraordinary Session of the Legislature of Alabama of 1971 and approved April 27, 1971 is hereby amended to read as follows:

"Section 13. Payment or Delivery of Abandoned Property. Every person who has filed a report under section 11, within 20 days after the time specified in section 12 for claiming the property from the holder, or in the case of sums payable on traveler's checks or money orders presumed abandoned under section 2 within 20 days after the filing of the report, shall pay or deliver to the Commissioner of Revenue all abandoned property specified in the report, except that, if the owner establishes his right to receive the abandoned property to the satisfaction of the holder within the time specified in section 12, or if it appears that for some other reason the presumption of abandonment is erroneous, the holder need not pay or deliver the property, which will no longer be presumed abandoned, to the Commissioner of Revenue, but in lieu thereof shall file a verified written explanation of the proof of claim or of the error in the presumption of abandonment."

Section 5. **Effective Date.** This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming law.

Approved September 17, 1973.

Time: 4:15 P.M.

Act No. 1085 H. 674—Bank, Falkenburg, Weeks, Culver

AN ACT

Further amending Code of Alabama 1940, Title 22, Section 93, relating to Vital Statistics, providing for accurate reporting data for divorces in order for Alabama to remain a registration district in the United States.

Be It Enacted by the Legislature of Alabama:

Section 1. Code of Alabama 1940, Title 22, Section 93, be amended to read as follows:

"Section 93. Record of divorces furnished board by registers and clerks. Within the first five days of each calendar month the clerk, register, or clerk and register of each court having equity jurisdiction in this state, shall forward to the state board of health at Montgomery, on certificates to be supplied by said board, a complete report of all divorces that have been granted in the county or district for the preceding month. The register or clerk, or register and clerk, of each said court shall be entitled to a fee of twenty-five cents for each divorce reported, said fee to be paid by the person applying for the divorce. The moving party or party first named, or his representative, shall submit in writing to said register as to the parties to said petition the following information: Name, address, county of residence, date of birth, race, date and place of marriage, number of children of said marriage, occupation and other reasonable statistical information related to said marriage and file this information with the clerk or register of the Court at the time the petition is filed; provided, however, failure of either party to so submit such information as above set forth shall in no way effect the proceedings on said petition nor shall same, or any part thereof, be used as evidence in any proceeding in this state."

Section 2. This Act is intended to relate entirely to the Alabama vital statistics system and is not intended to have effect on any other laws or parts of laws except to the extent in conflict with the positive provisions hereof.

Section 3. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 17, 1973.

Time: 4:15 P.M.

Act No. 1086 H. 707—Mims, Falkenburg, Doss, Connell, Reed (T), Bank, McNair, Boutwell, Erdreich, McMillan, Burgess Timmons, Adwell

AN ACT

To create and establish a fund for the Board of Corrections to be used by the Commissioner of Corrections in paying certain administrative expenses in the general office and in the prisons and institutions under his supervision.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby created from the Board of Corrections General Operating Funds, for the use and benefit of the Board of Corrections a fund in the amount of $20,000 to be known as the Corrections Revolving Fund. The purpose of said fund shall be to pay certain expenses at the general office of the Board of Corrections and at the prisons and institutions under its supervision and control. The Commissioner of Corrections, or the Chief Accountant of the Board of Corrections upon authorization by the Board, shall be the custodian of said fund, and shall authorize, approve or certify all withdrawals and expenditures from said fund. Reimbursement to this fund shall be made by voucher by the Commissioner or Chief Accountant, upon which the Comptroller shall issue his warrant. The Commissioner shall be authorized to make such expense advances from said fund to transfer agents and other employees as he deems proper. He shall be authorized to set aside such amounts as he deems necessary to the various prisons and institutions under his supervision for allowances to prisoners, and for general administrative uses in such institutions. Expenditures from said fund shall be budgeted and allotted pursuant to Code of Alabama 1940, Title 55, Chapter 4, Article 3, as amended. All refunds to the Corrections Revolving Fund as established by this act shall be made from the Board of Corrections General Operating Fund.

Section 2. All laws or parts of laws which conflict with this act are repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 17, 1973.

Time: 4:25 P.M.

Act No. 1087 H. 456—Fite

AN ACT

To provide further for the compensation of the deputy district attorney for Marion County.

Be It Enacted by the Legislature of Alabama:

Section 1. The deputy district attorney for Marion County shall receive a salary of $500 per month to be paid in the same manner as other deputy district attorneys in this State.

Section 2. The provisions of this Act shall become effective upon the expiration of the term of the current deputy district attorney for Marion County.

Approved September 17, 1973.

Time: 4:15 P.M.

Act No. 1088 S.J.R. 90—Dozier

SENATE JOINT RESOLUTION

RESOLUTION NAMING THE UNIVERSITY CENTER BUILDING AT TROY STATE UNIVERSITY THE RALPH W. ADAMS BUILDING

WHEREAS, Dr. Ralph W. Adams has supervised with brilliance and diligence during the past nine years the unprecedented improvements which have made Troy State University a nationally recognized education center; and

WHEREAS, the students and the faculty of Troy State University have benefited greatly from the increased stature and status of the University under his guidance; and

WHEREAS, it is both fitting and proper that such extraordinary leadership be publicly recognized with the greatest possible degree of permanence; now therefore;

BE IT RESOLVED BY THE SENATE OF ALABAMA, THE HOUSE OF REPRESENTATIVES CONCURRING,

That the new University Center Building at Troy State University be henceforth named the Ralph W. Adams Building, as a fitting tribute to the significant contributions he has made toward the development of the University.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to Dr. Ralph W. Adams.

Approved September 17, 1973.

Time: 3:45 P.M.

Act No. 1089 S.J.R. 103—Gilmore, King, Hawkins, Bailes, Vacca, Cook, Dominick

SENATE JOINT RESOLUTION

NAMING U.S. HIGHWAY 11 BETWEEN BIRMINGHAM AND TRUSSVILLE THE RICHARD BEARD MEMORIAL PARKWAY

WHEREAS, the late Richard Beard served this state with dignity and foresight for many years as an agricultural specialist; and

WHEREAS, Mr. Beard, for nearly forty years, owned and operated Glendale Farms, located in Jefferson County near Trussville, where, with his family, he engaged in large scale diversified farming, in the production of purebred Angus cattle, and in the operation of the Glendale Farms Mill and Supply Store; and

WHEREAS, service to the business community of Trussville was in addition to his strong civic conscience Mr. Beard having served on the Trussville City Council and as an elder in the Trussville Presbyterian Church; and

WHEREAS, Mr. Beard's travels carried him the length and breadth of this state, and many miles were registered by his travel over that stretch of highway between Birmingham and Trussville; and

WHEREAS, the residents of Jefferson County wish to pay a lasting tribute to Mr. Beard and his many accomplishments; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That as a sincere gesture of the esteem held for this great Alabamian, that portion of U.S. Highway 11 between Birmingham and Trussville shall hereinafter be named the RICHARD BEARD MEMORIAL PARKWAY, and the State Highway Department is directed to erect appropriate signs designating it as such.

Approved September 17, 1973.

Time: 3:45 P.M.

Act No. 1090 S.J.R. 109—Wilder

SENATE JOINT RESOLUTION

COMMENDING CERTIFIED NURSE ANESTHETISTS

WHEREAS, The State of Alabama is fortunate to have

among its citizens a group of dedicated professional workers who daily serve their fellow men ably and well; and

WHEREAS, the citizens of our great State of Alabama may be justly proud that they have at their call for service a group known as the Certified Registered Nurse Anesthetists of Alabama; and

WHEREAS, the members of this group have successfully completed the educational program of a school of nursing accredited by the National League of Nursing and have further successfully completed the educational program of a School of Anesthesia accredited by the American Association of Nurse Anesthetists and have further been certified as Certified Nurse Anesthetists by the American Association of Nurse Anesthetists; now therefore,

BE IT RESOLVED BY THE LEGISLATURE, BOTH HOUSES THEREOF CONCURRING, That this Professional Group of Certified Registered Nurse Anesthetists of Alabama be saluted, recognized and acclaimed as a Professional Association which is contributing in a material way to the health of the citizens of our State, and that a copy of this resolution be sent to this organization.

Approved September 17, 1973.

Time: 3:45 P.M.

Act No. 1091 SJ.R. 110—Owen

SENATE JOINT RESOLUTION

DESIGNATING THE DENTAL CLINIC AT THE JAMES H. FAULKNER STATE JUNIOR COLLEGE IN BAY MINETTE "THE HAROLD B. PEARSON DENTAL CLINIC"

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Dental Clinic at the James H. Faulkner State Junior College in Bay Minette, Alabama is hereby designated "the Harold B. Pearson Dental Clinic."

BE IT FURTHER RESOLVED That a copy of this resolution be sent to the president of James H. Faulkner Junior College, the State Board of Education and the State Superintendent of Education.

Approved September 17, 1973.

Time: 3:45 P.M.

Act No. 1092 S. 195—Noonan

AN ACT

To authorize each county in this state to sell and issue from time to time interest-bearing warrants for the purpose of paying costs of the reappraisal of property in that county required by Act No. 160 adopted at the 1971 Third Special Session of the Legislature; to provide that such warrants shall evidence general obligation indebtedness of the county; to provide that such warrant may, at the discretion of the governing body of the county, be additionally secured by a pledge or pledges of certain taxes and other revenues and funds; to specify the effect and priority of any such pledges; to authorize the refunding of any such warrants; and to provide for the sharing of payment of the principal of and interest on such warrants by all entities receiving any part of the proceeds from ad valorem taxation of property in said county.

Be It Enacted by the Legislature of Alabama:

Section 1. Legislative Intent. It is the intention of the Legislature by the passage of this act to authorize each county in the state to finance, by the sale and issuance of interest-bearing warrants of such county, the payment of all or part of the costs of the appraisal of property in such county that is required by the provisions of Act No. 160 adopted at the 1971 Third Special Session of the Legislature. This act shall be liberally construed in conformity with the said intention.

Section 2. Definitions. Wherever used in this act, unless a different meaning clearly appears in the context, the following terms shall be given the respective interpretations specified in this section.

"County" means each county in the state.

"Governing body" means the commission or other governing body of a county.

"Municipality" means a municipal corporation in the state.

"State" means the State of Alabama.

"Property reappraisal act" means Act No. 160 adopted at the 1971 Third Special Session of the Legislature of Alabama.

"Appraisal costs" means the costs of the appraisal of property in a county made pursuant to the requirements of the property reappraisal act.

"Tax recipient body" means the state, the county, each municipality located wholly or partly within the corporate limits of such county, the board of education of such county, each city board of education organized with respect to a municipality located wholly or partly within the county, each public hospital corporation (including each public hospital board,

public hospital association or other public hospital corporation) that receives, under any statute or constitutional amendment, any part of an ad valorem tax levied for public hospital purposes, and every other public body or public entity that receives, pursuant to any statute or constitutional amendment, any part of the proceeds from any ad valorem tax levied in the county or in any part thereof.

Section 3. Authorization of Issuance of Warrants. Each county shall have the power from time to time to sell and issue interest-bearing warrants of such county for the purpose of paying appraisal costs or any part thereof. Such warrants may be in such denomination or denominations, may have such maturity or maturities not exceeding twenty years from their date, may bear interest from their date at such rate or rates payable at such times, may be payable at such place or places within or without the state, may be sold at such time or times and in such manner, whether publicly or privately, may be executed in such manner, and may contain such terms not in conflict with the provisions of this act, all as the governing body of such county may provide in the proceedings wherein the warrants are authorized to be issued. All such warrants shall evidence general obligation indebtedness of the county by which they are issued, and the full faith and credit of the county shall be irrevocably pledged for the payment of the principal thereof and interest thereon. The proceeds derived from the sale of any such warrants shall be used solely for the purpose for which they are authorized to be issued, including the payment of any expenses incurred in connection with the issuance thereof.

Section 4. Special Pledges. The governing body of the county issuing any such warrants may, in its discretion assign and specially pledge, for the payment of the principal of and interest on such warrants, so much as may be necessary for said payment of any one or more of the following (or any part thereof):

(a) The general annual ad valorem tax of ½ of 1% which the county is authorized to levy without reference to the purpose thereof under the provisions of Section 215 of the Constitution of Alabama of 1901;

(b) The proceeds from any other tax (including any ad valorem tax and any privilege, license or excise tax) that at the time of the issuance of the said warrants may lawfully be used by the county for payment of such principal and interest;

(c) Any other revenues of, or funds available to, the county that at the time of the issuance of the said warrants may lawfully be used by the county for payment of such principal

and interest, including (but without limiting the generality of the foregoing) any payments that may be payable to the county under the proration provisions of the property reappraisal act.

To the extent necessary and sufficient for making the payments in respect of which such pledge is made, any tax or other revenues or funds pledged pursuant to the provisions of this section shall constitute a trust fund or funds which shall be impressed with a lien in favor of the holders of the warrants to the payment of which such sums are pledged. In the event that more than one pledge should be made with respect to any tax, revenues or funds the pledge of which is herein authorized, then such pledges shall take precedent in the order in which they are made unless the proceedings making such pledge shall expressly provide that such pledge shall be on a parity with or subordinate to a subsequent pledge thereof. All warrants for which the pledge authorized in this section may be made shall constitute preferred claims against that portion of the said tax or taxes, revenues or funds so pledged (subject to any prior lawful pledges thereof that may then have been made pursuant to the provisions of this or any other statute), and shall have preference over claims incurred for appraisal costs and any other claims for any other purpose whatsoever.

Section 5. Authorization of Refunding Warrants. Each such county may in like manner from time to time issue refunding warrants, either by sale or by exchange, for the purpose of refunding a like or greater principal amount of warrants then outstanding which were issued under the provisions of this act and the interest thereon and paying any premium necessary to be paid to retire the outstanding warrants refunded thereby. The provisions of this act applicable to the warrants so refunded shall likewise be applicable to such refunding warrants.

Section 6. Warrants to be Legal Investments for Trust Funds. Unless otherwise directed by the court having jurisdiction thereof, or by the document that is the source of authority, a trustee, executor, administrator, guardian, or one acting in any other fiduciary capacity may, in addition to any other investment powers, invest trust funds in warrants issued under the provisions of this act.

Section 7. Issuance of Warrants Deemed to Constitute Audit and Allowance of Claim. The issuance of warrants and any interest coupons applicable thereto, pursuant to the provisions of this act and in accordance with the authorization of the governing body of the county issuing such warrants, shall be deemed to constitute an audit and allowance by such governing body of a claim, in the aggregate principal amount of

such warrants and interest coupons, against the county and against any tax proceeds and any revenues or funds, or any thereof, pledged for payment of such warrants pursuant to the provisions of this act. No proof of registration or other audit or allowance of such claim shall be required and such warrants and interest coupons shall, from and after the date of their lawful issuance, be deemed to be allowed claims against the county by which they were issued and against any tax proceeds, revenues and funds, or any of them, so pledged thereof.

Section 8. Provisions Hereof Control. Insofar as the provisions of this act may be inconsistent with the provisions of any other law, the provisions of this act shall control, it being hereby specifically declared that the provisions of Section 78 of Title 12 of the Code of Alabama of 1940 shall not be applicable to the warrants issued under the provisions of this act.

Section 9. Payment of Pro Rata Shares of Principal of and Interest on Warrants. The principal of and interest on the warrants issued under the provisions of this act are hereby declared to be lawful costs of the equalization program referred to in the property reappraisal act and to be lawful and necessary governmental costs of the assessment and collection of ad valorem taxes levied in the county issuing said warrants, required by law to be paid as part of the current governmental operating expenses of each tax recipient body receiving proceeds from ad valorem taxation in said county. The principal and interest shall be paid pro rata by each such tax recipient of such county and by the State of Alabama in the proportions which the amount of ad valorem tax received by each tax recipient body including the State of Alabama bears to the total amount of ad valorem tax received by all. For that purpose, the tax collector of each county issuing warrants under this act is hereby ordered and directed to withhold and pay over to said county, from the gross proceeds of each annual collection of ad valorem taxes on property in said county, the pro rata shares to be borne by each tax recipient body of the principal of and interest on said warrants maturing in that same fiscal year. The said shares shall be payable solely out of the proceeds from said ad valorem taxes collected during the then current fiscal year and allocable to each tax recipient body including the State of Alabama. Notwithstanding the foregoing provisions of this section, the principal of and interest on any warrants issued under the provisions of this act shall, in any and all events, be payable as general obligations of said county and from any taxes, revenues or funds referred to in Section 4 hereof that may have been specifically pledged for such payment, regardless of the sufficiency for any reason whatsoever

of the payment to the county of the aforesaid pro rata shares by or in behalf of any other tax recipient body.

Section 10. Provisions Supplemental to Property Reappraisal Act. The provisions of and powers conferred by this act shall be supplemental to the provisions of and powers conferred by the property reappraisal act.

Section 11. Severability. If any clause or provision of this act shall be, or be declared to be, invalid, any such invalidity shall not affect any other clause or provision hereof that is not in itself invalid.

Section 12. Effective Date. This act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming law.

Approved September 17, 1973.

Time: 3:45 P.M.

Act No. 1093 S. 515—Noonan

AN ACT

To amend Section 88 of Act No. 414, S. 261, approved November 13, 1959 (General Acts of Alabama 1959, Vol. 2, Page 1055) entitled "An Act to provide further for the organization, admission, consolidation, merger, and dissolution of certain corporations, and to prescribe the powers, authority, and duties of such corporations, and of the officers, directors, and stockholders thereof; subject to the provisions of Section 100 of this Act, to repeal Sections 1 through Section 15, Sections 17 and 18, Sections 22 through 47, Section 70, Sections 91 through 101, Sections 103 through 110, Sections 189 through 197, all as contained in Title 10 of the Code of Alabama of 1940 as amended; and Section 198 of Title 10 of the Code of Alabama of 1940." by adding pipeline companies to the corporations included in said Section 88.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 88 of Act No. 414, S. 261, approved November 13, 1959 (General Acts of Alabama 1959, Vol. 2, Page 1055) entitled "An Act to provide further for the organization, admission, consolidation, merger, and dissolution of certain corporations, and to prescribe the powers, authority, and stockholders thereof; subject to the provisions of Section 100 duties of such corporations, and of the officers, directors, and of this Act, to repeal Sections 1 through Section 15, Sections 17 and 18, Sections 22 through 47, Section 70, Sections 91 through 101, Sections 103 through 110, Sections 189 through 197, all as contained in Title 10 of the Code of Alabama of 1940 as amended; and Section 198 of Title 10 of the Code of Alabama of 1940." is hereby amended to read as follows:

"SEC. 88 POWERS OF FOREIGN STREET CAR, ELECTRIC LIGHT, TELEGRAPH, TELEPHONE, POWER AND PIPELINE COMPANIES.—Any foreign corporation which has complied with the constitution and laws of this state for doing business herein and which is engaged in constructing or operating a street car, electric light, telegraph, telephone, or power lines or pipelines or works in an adjoining state, may extend its lines, tracks, ways, pipelines or works into this state and connect with other lines, pipelines, ways, or works of similar or like character, and for such purposes may have and exercise the same rights, privileges, immunities, and remedies as to right of eminent domain and condemnation proceedings as are had and exercised by domestic corporations engaged in like or similar business."

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming law.

Approved September 17, 1973.

Time: 3:45 P.M.

Act No. 1094 S. 537—Owen

AN ACT

To authorize the Baldwin County Commission to regulate the minimum size of lots and the planning and construction of all public streets, public roads, and drainage structures located or to be located in subdivisions of land situated outside the corporate limits of any municipality in Baldwin County.

Be It Enacted by the Legislature of Alabama:

SECTION 1. The Baldwin County Commission is authorized to regulate the minimum size of lots located or to be located in subdivisions of land situated outside the corporate limits of any municipality in said county and is authorized to regulate the planning and construction of all public streets, public roads, and drainage structures located or to be located in subdivisions of land situated outside the corporate limits of any municipality in said county, including the power to require the filing and posting of a reasonable surety bond with such County Commission by the developers of such subdivisions to guarantee the actual construction and installation of such approved proposed public streets, public roads, and drainage structures before the sale or offering for sale of any lots from such subdivision to the public. The County Commission may require the developers of all proposed subdivisions of lands

situated outside the corporate limits of any municipality in said county to submit the plat of such proposed subdivision to the County Commission of said county for approval before such plat is filed for record in the office of the judge of probate.

SECTION 2. If any such public street, public road, or drainage structure is erected, constructed or maintained in violation of the provisions of this Act or any regulations made pursuant thereto, the county may institute appropriate action or proceedings to prevent such unlawful erection, construction or maintenance, or to require such erection, construction, or maintenance to conform to the regulations prescribed therefor.

SECTION 3. This Act shall take effect October 1, 1973.

Approved September 17, 1973.

Time: 3:45 P.M.

Act No. 1095 S. 548—Owen

AN ACT

To provide the sheriff's department of Baldwin County with a specific number of employees, establishing the rate of compensation for said employees, and providing for training of such.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) In lieu of any chief deputy sheriff, deputy sheriffs, jailers or matrons heretofore authorized by law, the sheriff of Baldwin County is hereby authorized to appoint not less than the following number of employees whose compensation shall be paid from any fund of the county treasury each month in the amounts listed below.

Number of Employees Authorized	Rank	Compensation
1	Chief Deputy	Shall be the same as a Lieutenant in Alabama State Highway Patrol.
8	Deputies	Shall be the same as a State Trooper in Alabama State Highway Patrol.
2	Sergeants	Shall be the same as a Sergeant in Alabama State Highway Patrol.
1	Matron	Shall be the same as a Clerk Stenographer III in the Alabama Department of Public Safety.

1	Chief Jailer	Shall be the same as a Corporal in State Troopers in Alabama State Highway Patrol.
2	Jailers	Shall be the same as a State Trooper in Alabama State Highway Patrol.
1	Chief Investigator	Shall be not less than that made by an Alabama State Highway Patrol Investigator Sergeant, and not more than Alabama State Highway Patrol Investigator Lieutenant; between said limitations, the sheriff shall fix said employees' salary.

The Chief Deputy, Deputies, Chief Investigator, and Sergeants shall begin employment under the provisions of this act in a grade not greater than grade 4 corresponding to the rank listed opposite said position.

Section 2. All above named personnel shall be required to complete such training, schooling and inservice training as are from time to time required and prescribed by the sheriff of Baldwin County, Alabama, such training, schooling and inservice training to be paid by the county governing body.

Section 3. In addition to the compensation referred to in Section 1 of this Act all uniformed personnel of the sheriff's department shall be entitled to a uniform allowance of not less than $250.00 per year and the prescribed uniforms shall be purchased by the department.

Section 4. In addition to the employees authorized in Section 1 of this Act the sheriff is hereby authorized to appoint as many additional special deputies as he deems necessary, which special deputies shall serve without compensation from the county treasury.

Section 5. All compensation and number of personnel shall be considered to be minimum numbers of personnel and compensation thereof and the same may be increased at the discretion of the Baldwin County Commission but shall not be decreased.

Section 6. The provision of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part that remains.

Section 7. Any law or parts of laws which conflict with this Act are repealed.

Section 8. Upon passage of this Act by the Alabama Legislature and adoption by the Governor, or its otherwise becoming law, it shall become effective October 1, 1973.

Approved September 17, 1973.

Time: 3:45 P.M.

Act No. 1096 S. 761—Baker

AN ACT

To provide an additional expense allowance for the Circuit Judges of the Ninth Judicial Circuit.

Be It Enacted by the Legislature of Alabama:

Section 1. The Circuit Judges of the Ninth Judicial Circuit shall receive an additional expense allowance of $4,000 per annum for the purpose of defraying expenses in the performance of their official duties. The allowance herein provided shall be paid in equal monthly installments from the general funds of each county that is a part of the judicial circuit on a pro rata basis calculated upon the proportion of the assessed value of property of each county to the total assessed value of property of the judicial circuit as shown by the records in the tax assessors' offices of such counties. The expense allowance herein provided shall be in lieu of all expense allowances now or hereinafter paid by the State of Alabama, except that provided by Code of Alabama, Title 13, Sec. 178 and Act 353, Regular Session 1963 (Acts 1963, p. 853).

Section 2. This act shall become effective January 1, 1974.

Approved September 17, 1973.

Time: 3:45 P.M.

Act No. 1097 S. 762—Baker

AN ACT

To provide for an additional expense allowance for the District Attorney of the Ninth Judicial Circuit.

Be It Enacted by the Legislature of Alabama:

Section 1. The District Attorney of the Ninth Judicial Circuit shall receive an additional expense allowance of $4,100 per annum for the purpose of defraying expenses in the performance of his official duties. The allowance herein provided

shall be paid in equal monthly installments from the general funds of each county that is a part of the judicial circuit on a pro rata basis calculated upon the proportion of the assessed value of property of each county to the total assessed value of property of the judicial circuit as shown by the records in the tax assessors' offices of such counties. The expense allowance herein provided shall be in lieu of all expense allowances now or hereinafter paid by the State of Alabama, except that provided by Code of Alabama, Title 13, Section 241 and Act 352, Regular Session 1963 (Acts 1963, p. 853).

Section 2. This act shall become effective January 1, 1974.

Approved September 17, 1973.

Time: 3:45 P.M.

Act No. 1098 S. 763—Baker

AN ACT

To provide an expense allowance for the District Attorney of the Thirty-eighth Judicial Circuit.

Be It Enacted by the Legislature of Alabama:

Section 1. The District Attorney of the Thirty-eighth Judicial Circuit of this state shall receive an expense allowance of $4,200 per annum for the purpose of defraying expenses in the performance of his official duties. The allowance herein provided for shall be payable from the general funds of the county composing the circuit by the governing body of said county in equal monthly installments. The expense allowance herein provided for shall be in lieu of all expense allowances now or hereinafter paid by the State of Alabama.

Section 2. This act shall become effective January 1, 1974.

Approved September 17, 1973.

Time: 3:45 P.M.

Act No. 1099 S. 764—Baker

AN ACT

To provide for an expense allowance for the Circuit Judge of the Thirty-eighth Judicial Circuit.

Be It Enacted by the Legislature of Alabama:

Section 1. The Circuit Judge of the Thirty-eighth Judicial Circuit of this state shall receive an expense allowance of $4,400 per annum for the purpose of defraying expenses in the performance of his official duties. The allowance herein provided for shall be payable from the general funds of the county composing the circuit by the governing body of said county in equal monthly installments. The expense allowance herein provided for shall be in lieu of all expense allowances now or hereinafter paid by the State of Alabama.

Section 2. This act shall become effective January 1, 1974.

Approved September 17, 1973.

Time: 3:45 P.M.

Act No. 1100 S. 779—Baker

AN ACT

To authorize the district attorney of the Thirty-Eighth Judicial Circuit to appoint a part-time deputy district attorney, and to prescribe his duties; to fix his compensation and the manner of its payment.

Be It Enacted by the Legislature of Alabama:

Section 1. The district attorney of the Thirty-Eighth Judicial Circuit, may appoint one part-time deputy district attorney who shall serve at the pleasure of the district attorney.

Section 2. The deputy district attorney shall be paid an annual salary of $3,600. Such salary shall be paid out of the state treasury in the same manner as other state officers are paid, and shall be in addition to any amount paid by the county as provided by law.

Section 3. The deputy district attorney may perform any of the duties which the district attorney can perform when any such duty is assigned to him by the district attorney, and said deputy district attorney shall perform other duties assigned to him by the district attorney.

Section 4. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. All laws or parts of laws which conflict with this act are repealed.

Section 6. This act shall become effective January 1, 1974.

Approved September 17, 1973.

Time: 3:45 P.M.

Act No. 1101 S. 823—Clark

AN ACT

To authorize the governing body of Barbour County to provide for the relief of Evelyn Herring for the damage to her automobile due to a defective county road.

Be It Enacted by the Legislature of Alabama:

Section 1. The governing body of Barbour County is authorized and empowered to appropriate from the general funds of the county an amount up to $850.00 to compensate Evelyn Herring for damages to her automobile sustained due to a defective county road; there being no recourse at law to recover the same and the county being morally obligated to provide for such compensation.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 17, 1973.

Time: 3:50 P.M.

Act No. 1102 S. 833—Baker

AN ACT

To provide additional compensation for each official court reporter of the Thirty-eighth Judicial Circuit.

Be It Enacted by the Legislature of Alabama:

Section 1. In addition to all other compensation provided by law, each official court reporter of the Thirty-eighth Judicial Circuit shall receive as additional compensation the sum of one thousand dollars ($1,000) per annum, which shall be payable out of the general funds of the county comprising the Thirty-eighth Judicial Circuit.

Section 2. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 3. This act shall become effective January 1, 1974.

Approved September 17, 1973.

Time: 3:50 P.M.

Act No. 1103 S. 834—Baker

AN ACT

To establish in the Thirty-eighth Judicial Circuit the office of clerk-secretary to each circuit judge of said circuit; to prescribe the duties of said clerk-secretary, fix the term of office and prescribe the pay; and to provide for the payment of the salary of said clerk-secretary out of the general funds of the county comprising the Thirty-eighth Judicial Circuit.

Be It Enacted by the Legislature of Alabama:

Section 1. In the Thirty-eighth Judicial Circuit there is hereby established the office of clerk-secretary to each circuit judge of the Thirty-eighth Judicial Circuit.

Section 2. Each judge of the Thirty-eighth Judicial Circuit shall appoint a clerk-secretary who shall serve at the pleasure of the circuit judge making the appointment and who may be removed from office at any time by such circuit judge.

Section 3. Each clerk-secretary shall do all of the clerical and secretarial work required by the circuit judge making the appointment and shall keep such records and perform such other duties pertaining to the office of such circuit judge as such clerk-secretary shall be instructed or required to do by such circuit judge.

Section 4. Each clerk-secretary shall receive a salary in the amount of six thousand dollars ($6,000) per annum, which shall be payable out of the general funds of the county comprising the Thirty-eighth Judicial Circuit.

Section 5. The governing body of the county comprising the Thirty-eighth Judicial Circuit shall by agreement provide for each clerk-secretary office space, equipment and supplies and the county shall bear this expense.

Section 6. This Act shall become effective January 1, 1974.

Approved September 17, 1973.

Time: 3:50 P.M.

Act No. 1104 S. 836—Baker

AN ACT

To amend Act 249, S. 171, Regular Session 1973, which provides additional compensation for the official court reporters of the ninth judicial circuit, so as to change the method of payment.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act 249, S. 171, Regular Session 1973, is hereby amended to read as follows:

"Section 1. In addition to all other compensation provided by law, each of the official court reporters of the Ninth Judicial Circuit shall receive as additional compensation the sum of one thousand dollars ($1,000) per annum, which shall be payable in monthly installments out of the general funds of each County that is a part of the judicial circuit on a pro rata basis calculated upon the proportion of the assessed value of property of each county to the total assessed value of property of the judicial circuit as shown by the records in the tax assessors' offices of such counties."

Section 2. This Act shall become effective January 1, 1974.

Approved September 17, 1973.

Time: 3:50 P.M.

Act No. 1105 S. 853—Harris

AN ACT

Creating the position of full time deputy district attorney for the eighth judicial circuit; providing compensation for such position.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby created the position of full time deputy district attorney for the eighth judicial circuit. Such deputy shall be appointed by the district attorney for said circuit, with the duties and responsibilities of the position to be established by the district attorney.

Section 2. The position created under Section 1 of this act shall be compensated in the following manner: (a) ten thousand eight hundred dollars ($10,800) yearly compensation from the State, (b) the county in said circuit with the largest population shall supplement a salary of two thousand dollars ($2,000) annually, (c) the county in said circuit with the smallest population shall supplement a salary of one thousand two hundred dollars ($1,200) annually.

The total compensation provided herein shall be payable in equal monthly installments.

Section 3. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. This act shall become effective immediately

upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 17, 1973.

Time: 3:50 P.M.

Act No. 1106 S. 868—Weaver

AN ACT

Relating to all counties having populations of not less than 65,000 nor more than 68,000; providing further for the compensation and expenses of the circuit clerk in such counties.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall apply to all counties having populations of not less than 65,000 nor more than 68,000 according to the most recent federal decennial census.

Section 2. In all counties to which this act applies, the clerk of the circuit court shall be entitled to an expense allowance of fifteen hundred dollars ($1500) per annum, which shall be paid in equal monthly installments out of the general funds of the county, only for the remainder of the term of the incumbent circuit clerk. Upon the election and qualification of his successor, the circuit clerk shall receive a salary equal to that paid to the tax assessor or tax collector of the county (but not both). Provided, however, if the circuit clerk also serves as register of the circuit court, then he shall receive a total compensation equal to the salary of one such officer for performing the duties of both clerk and register.

Section 3. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this act are repealed.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 17, 1973.

Time: 3:50 P.M.

Act No. 1107 S. 869—Weaver

AN ACT

Relating to all counties having populations of not less than 65,000 nor more than 68,000; providing further for the compensation of the register of the circuit court in such counties.

Be It Enacted by the Legislature of Alabama:

Section 1. In all counties to which this act applies, the register of the circuit court shall be entitled to an expense allowance of fifteen hundred ($1,500.00) per annum, which shall be paid in equal monthly installments out of the general funds of the county, only for the remainder of the appointed term of the incumbent register of the circuit court. Upon the new appointment, the register shall be paid an amount equal to one thousand dollars ($1,000.00) less than the circuit clerk of said county.

Section 2. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved September 17, 1973.

Time: 3:50 P.M.

Act No. 1108 S. 875—Clark

AN ACT

Relating to counties having a population of not less than 22,250 nor more than 23,000 according to the most recent federal decennial census; authorizing the District Attorney of such counties to appoint one Deputy District Attorney; providing for compensation.

Be It Enacted by the Legislature of Alabama:

Section 1. In all counties having a population of not less than 22,250 nor more than 23,000 according to the most recent federal decennial census, the District Attorney of such counties is hereby authorized to appoint one Deputy District Attorney. Such appointee shall be entitled to receive an equal share of any funds now or hereafter appropriated to the circuit in which such counties lie by the state for the compensa-

tion of deputy district attorneys, in addition to any compensation authorized by the governing body of such counties.

Section 2. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 17, 1973.

Time: 3:50 P.M.

Act No. 1109 S. 879—Baker

AN ACT

To establish in the Ninth Judicial Circuit the office of clerk-secretary to each of the two circuit judges of said circuit; to prescribe the duties of said clerk-secretary, fix the term of office and prescribe the pay; and to provide for the payment of the salary of said clerk-secretary out of the general funds of the counties comprising the Ninth Judicial Circuit.

Be It Enacted by the Legislature of Alabama:

Section 1. In the Ninth Judicial Circuit there is hereby established the office of clerk-secretary to each of the two circuit judges of the Ninth Judicial Circuit.

Section 2. Each of the two judges of the Ninth Judicial Circuit shall appoint a clerk-secretary who shall serve at the pleasure of the circuit judge making the appointment and who may be removed from office at any time by such circuit judge.

Section 3. Each clerk-secretary shall do all of the clerical and secretarial work required by the circuit judge making the appointment and shall keep such records and perform such other duties pertaining to the office of such circuit judge as such clerk-secretary shall be instructed or required to do by such circuit judge.

Section 4. Each clerk-secretary shall receive a salary in the amount of six thousand dollars ($6,000) per annum which shall be payable in equal monthly installments out of the general funds of each county that is a part of the judicial circuit on a pro rata basis calculated upon the proportion of the assessed value of property of each county to the total assessed value of property of the judicial circuit as shown by the records in the tax assessors' offices of such counties.

Section 5. The governing body of each of the said counties comprising the Ninth Judicial Circuit shall by agreement provide for each clerk-secretary office space, equipment and supplies and each such county shall bear this expense on the same percentage basis as the salaries.

Section 6. This Act shall become effective January 1, 1974.

Approved September 17, 1973.

Time: 3:50 P.M.

Act No. 1110 S. 892—Horne

AN ACT

Relating to all counties having a population of not less than 35,000 nor more than 38,000 according to the last or any subsequent federal decennial census, authorizing the county commission to set the number of working days for the county board of equalization and to set and pay a travel allowance to the members of the board.

Be It Enacted by the Legislature of Alabama:

Section 1. The county commission of all counties having a population of not less than 35,000 nor more than 38,000 according to the last or any subsequent federal decennial census may set the annual number of working days for the county board of equalization, provided that the number of working days shall not exceed 150.

Section 2. The county commission of said counties may set and pay the members of the board of equilization a travel allowance of up to $250 per annum, per member. Said allowance to be paid in equal monthly installments from the county general fund.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 17, 1973.

Time: 4:00 P.M.